

**BILLS AND LEGISLATION COMMITTEE**  
**INQUIRY INTO THE**  
**CONSTITUENCY DEVELOPMENT FUND BILL-2013**

**12 March 2013**

**Members**

Hon Manasseh Sogavare	-	Chairman
Hon Douglas Ete	-	Member
Hon James Tora	-	“
Hon John Maneniaru	-	“
Hon Derek Sikua	-	“
Hon Matthew Wale	-	“
Hon Milner Tozaka	-	“

**Witnesses**

Ms Selina Boso	-	Permanent Secretary/Ministry of Rural Development
Mr Jerry Manele	-	Permanent Secretary/Ministry of Planning
Mr Edward Ro'onia	-	Auditor General
Mr Ranjit Hewagama	-	Legal Draftsman
Dr Philip Tagini	-	SSPM

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**Mr Chairman:** This is a very important bill before the Committee, the Constituency Development Funds Bill 2013, and I welcome the officials this morning. We acknowledge the presence of the Permanent Secretary of the Ministry of Rural Development - the focal ministry of this bill. We acknowledge the presence of the Permanent Secretary of the Ministry of Development Planning. We acknowledge the presence of the Auditor General with us. We

acknowledge the presence of the legal draftsman from the legal chambers. I think the other officers came with the other ministries and we thank you very much for appearing before the Bills and Legislation Committee on this important Bill.

As you know you are protected under parliamentary privileges. Anything you say will not be taken up against you in any court of law. The whole intention there is to enable people to appear before the Committee to express everything they want to say, all in the interest of advising parliament properly when this bill goes before parliament for deliberation. Indeed as intimated by the colleague in his prayer, this is a very important bill, one that is in the thoughts of a lot of people and a lot of issues were raised in the media about it where people are criticizing the administration of the funds and how it is used in the constituencies and so forth. And so I think this is a step forward to coming up with a legal mechanism to assist constituencies to administer the funds that are channeled through members of parliament for the purpose of addressing developments in constituencies.

We note the objects and reasons of the bill, which later on we will look at. The objects of the bills are to ensure that the constituency development funds allocated to the 50 constituencies are managed and disbursed, and I think the key words here are 'transparent' and 'equitable' manner, which we will be looking at in detail when we come to the details of the various clauses that are suggested to become sections of the intended bill.

We appropriately asked the government ministries to come first because policies are formulated by ministries, and later on during the course of the hearing we will be calling on other interested stakeholders to come and share their views in the interest of advising parliament properly, as I've said earlier.

What we will be doing is to first start appropriately with the Ministry of Rural Development as the focal ministry that is bringing this bill, addressing maybe the major policy rationale, I guess, behind why this bill was brought in. And while we still have the Attorney General's office here, the Legal Draftsman who is responsible for putting the policy into legal wording is here with us and when we go clause by clause later on and maybe as we progress we will raise issues and questions and we will get responses from the ministries. We will first of all give it to the Ministry of Rural Development and we acknowledge the presence of the Ministry

of Development Planning as well here might need to come next. We will get some views from the Auditor General; so maybe in that order. The legal draftsman is here to help us with the legal side of the discussion. Without further ado I call on the Permanent Secretary of the Ministry of Rural Development to address the committee.

**Ms. Selina Boso:** First of all, let me thank you for the words of welcome. Also I would like to thank members of the Committee who are here to this very important hearing on the Constituency Development Bill. I have my officials here with me, the Undersecretary - Clezy Rore and the Financial Controller, Mr Dick. The Ministry is happy once again to come before the Bills and Legislation Committee to discuss this very important bill. I also acknowledge the presence of the Attorney General's office and the Ministry of Development Planning and the office of the Auditor General to assist the Ministry in our discussion of this bill.

First of all, I would like to mention that the role of any government in managing its policies or its reform programs or measures for the interest of the nation and its people is a critical one. The bill that is before us is an indication of the Government's intention to advance its rural development policy and reform programs.

As we are all aware the Ministry of Rural Development is a key player in the development process of our nation and people, whereby we continue to see increase of allocation of development funds for development purposes over the past four or more years since the ministry's establishment. The Ministry of Rural Development has been vested with the responsibility of managing the constituency approach to development whereby development funds for constituency development is currently shared equally across the 50 constituencies for development purposes.

But coming back to NCRA policy and its reform measures, the Government through the ministry has indicated in its policy, Policy No. 7 specifically highlights the issue of governance. Policy 7(I) actually emphasizes the need to ensure effective control mechanisms of the rural constituency development funds with an objective to ensure some checks and balance is in place of the way the funds are managed and administered. I think it is within this scope and that over the years, Government has taken note of people's concerns and issues raised about

mismanagement of funds, no tangible developments seen from the RCDF etc, that this proposed piece of legislation was pursued on by the Ministry, purposely for the proper management of development funds to constituencies.

I would like to also say that in the Ministry's corporate plans 2011 – 2014, we have incorporated this as one of the major strategies the ministry would entail on, and today we see this bill before Parliament as government's indication to ensure we work on the reform specifically for this constituency development fund.

Having said this, this bill is a regulation in its first instance. It is a regulation basically to ensure that the constituency development funds allocated to the 50 constituencies, like we have mentioned, are managed in a transparent and equitable manner. There is definitely further work to be done, which the ministry would pursue into this year in terms of the governance side to look into structural arrangements with our current governance system in place, for instance the Provincial Government, the proposed federal system and talk with Permanent Secretaries of the respective ministries; Provincial Government and the Constitution Reform Unit will soon begin next week.

Work on this constituency bill has already begun last year. But due to time frame and the push from the government to ensure something is brought quickly to Parliament, I think this regulation must be in place first before going into the whole issue of governance. I think I would only emphasise that further work will be done this year and hopefully before Parliament dissolves next year we would see a bigger bill to Parliament on this.

I think at the end of the day a governance system that is much closer to the people, coupled with good legislation framework and strong institutional agencies in place to address the needs of the people is the way forward for this country. And the Ministry of Rural Development through the constituency development approach to development has proven in just less than five years that it has indeed served as a broker to effective service delivery to our people, throughout the 50 constituencies. At least people who are actually residing in the rural areas have the benefit to enjoy government development assistances directed to them. I believe we only need to strengthen the approach with good legislations, adequate manpower resources and a systematic governance system at the community level, so that we realize the

full benefits of development funds to assist our people address their development needs down at the constituency level.

I guess with that brief introduction I would conclude here and like the Chairman has mentioned, going through the bill clause by clause will bring out the issues on what each of the clause have come through.

To end my brief statement, basically like I have said, the bill is a regulation to put into better use the disbursement of development funds to constituencies for development and therefore the following areas are very important to be incorporated into the bill by the ministry, and I think one of the areas is, first of all, the importance of this institution at the constituency level to administer the disbursement of constituency development funds, and that I mean the establishment of 50 constituency development offices in each of the 50 constituencies throughout the country. I think that is in terms of institutional strengthening, and then to be coupled with the need for recruitment or deployment of public officers to man the constituency offices at the constituency level.

I think basically what we wanted is to increase government's presence at our people's level down there and allow easy access to our people through government's goods and services. I guess that too is the importance of the constituency offices and the public officers to be placed down there at the constituency level. More so that is the institution that would be responsible for the management and administration of the constituency development funds in the constituency which has its own boundaries, its communities and people.

Further, this Bill also addresses the importance of gender equity. I guess that is an area that has also been taken into account in the bill, which looks at combating gender discrimination. We believe this is a good initiation so that we address the equitable and fair distribution of funds to our other groups within our societies.

In terms of the planning process down at the constituency level, the importance of having constituency profiles in each constituency, which is about what we have in each constituencies and what we do not have in the constituency, it is about information and data about a particular constituency; that is the profile. It is an important tool for planning and development purpose and it's a pre-requisite to having the constituency development plan,

which is a criterion for the disbursement of CDFs at the constituency level. These two important documents, I guess are very important in terms of planning and development and the way in which the CDF will be disbursed will be according to the constituency development plan in each of the constituency.

There is also the need for the establishment of a constituency account and that is purposely for budgetary support to ensure operations of the constituency offices can take in place. Having said that the budget formation in 2014 should consider constituencies' allocated budgets so that they can manage themselves and operate down there because currently they are being footed with the headquarter ministry and is inadequate at the present time.

Also, importantly these CDFs will be subject to audit for audit purposes which is a good thing. It also allows for monitoring and evaluation of projects at the constituency and the partnership with important development stakeholders at the government level, for example, the Ministry of Development Planning; this will be co-done monitoring from the ministry, it will be core-done with other development stakeholders to ensure we produce reports of tangible developments going down.

The process by which funds will be accessed will be by way of application and that is contained in the bill as well. The endorsement will be by respective members of parliament of a particular constituency, and that endorsement allows for the disbursement of funds to the various development projects.

Yes, this is basically what the bill is looking at. We know that there would be a lot of issues raised in terms of this bill. But like I have said this bill is an indication of the government's commitment to see we better administer this huge allocation of development funds that are going down to constituencies and our people for development purposes. I think with those brief remarks I will stop here and allow for more questions. Thank you.

**Mr Chairman:** Thank you PS/Ministry of Rural Development. We have the Permanent Secretary of the Ministry of Development Planning is here and so we will give him the opportunity to address the Committee before we further proceed. Thank you.

**Mr Jerry Manele:** Thank you Chairman of Bills and Legislation Committee and Honourable members of the Committee, thank you for the invitation to be here this morning to appear before the Committee on this important bill. I have some general comments and I also have some specific comments that I will comment on when we come to the clauses of the Bill.

In terms of the general comments, just an addition to what the colleague PS/Ministry of Rural Development has outlined in terms of policy basis, I think any government of this country will take rural development whether it's bottom up or top down as the basis of its policy, given the fact that 80 percent of our population are in the rural areas. So in that regard the rationale and the objective of the bill must or should capture that basic fact that any government in this country will always take or treat rural development as the main basis of its policy given the population that we have in a rural area where most of our people live. That is my first point.

The second general point relates to the rationale and, of course, the object of the bill. If the rationale is to justify the allocation of funds to the constituencies, that's fine, at least we have a legal framework to do that but as I have said, it has to be minding the post, but it has also to be balanced or proportionate with allocations to important priority sectors, national project or provincial governments, for example. That balance I think is important to keep in mind in terms of the distribution of funds. Health and education, for example, will continue to be important sectors in this country being an LDC, being a small and developing state, those two social sectors will continue to be priority sectors of any government.

The other general point I have is that the constituency development plans we are going to come up with must be linked to the national development strategy - 2011 to 2020. The CDPs should also be linked in a way to respective provincial government plans that we have in our country. Because I think that is also the context on which the respective constituency development plans should be based on and so it is important that the CDPs must be linked to the Provincial Government Plan and also the National Development Strategy 2011 – 2020 and the medium term development plan that we should have by the end of July this year. That linkage, I believe is important. We have asked our donor partners to align their programs to the National Development Strategy and I think it's important that we also take and demonstrate

that commitment in showing that our CDPs are also aligned to the National Development Strategy.

Those are my general comments Mr Chairman and members. I have some specific comments when we come to the various clauses of the Bill. Thank you.

**Mr Chairman:** Thank you very much PS/Ministry of Planning and Development. We have the Auditor General here with us so I will give him the opportunity to make some comments.

**Mr Edward Ro'onia:** Thank you Chairman for inviting me to make some general views on this very important Bill. First of all I would like to comment on some of the areas which I find the Bills has provided for, for which I am happy in that it provides for a constituency office for all the different constituencies; it provides for a constituency officer to man the office, it provides for constituency accounts and importantly it provides for the auditing of the accounts.

As an officer who is entrusted with ensuring that funds of our country is properly administered and executed, I am more concerned with the area of control. I noticed that this area of provision is provided for, adding on to what the PS had said in terms of development, I seem to see the Bill not provide for developments that provinces would like to take into account. At the moment the way the Bill is worded here gives the Constituency Development Officer and the Minister to plan what the development is going to be for the constituency, but I believe if the constituency is to be developed, it should be done through the collective views of the people of the constituency. I am thinking in terms of that while there is an office there, the constituency should have a committee that analyses all developments of the constituency because the Bill is meant for the development of a constituency. If the member and the constituency development officer are doing all the planning, then it is all by themselves rather than the constituency.

I am thinking that the area of development does not involve the people of the constituency, and I believe this is a very important Bill that would enable us or especially parliamentarians to see where developments are taking place in their constituencies. At the moment you will not see and follow the progress of development in the constituency because



the plan for the constituency is not; the way it is at the moment in terms of the Act does not seem to come from a constituency developed plan but rather it is just a plan and it could be done by the MP and the CDO within the office. I am thinking that it should come from a broader body that represents the constituency to agree on what developments should take place.

In terms of control, I see a lot of powers given to the CDO, and I am thinking more of separation of duties. The CDOs seem to be given a lot of power to decide, to sign the accounts, to control accounts, which I believe is a very risky side in terms of accounting. Whereas if we have a committee where the endorsement must be a Member of Parliament and the chairman of a committee, a member of a committee is separate from the CDO then that function of separation of duty is very clean and we do not accuse the CDO for the projects because it's a project that is endorsed by a committee. We do not want to see that he is serving himself or just between him and the MP.

Those are areas of my concern as a person responsible for accountability. We would like to ensure that there is true development that is approved and endorsed by respective constituencies and that the control of funds is not an area that will be subject to abuse if the MP and CDO only are responsible for approving and paying.

The other area which I would like to see the Act provide is to report to the ministry. It doesn't seem to provide for the accountability of what has happened on an annual basis that will be the area for my audit. At the moment only the submission of projects are passed to the ministry but I would like to see accountability as to how the funds have been used and then a report presented to the ministry on everything that happened – all the projects that have been approved and how they are progressing; a report on what has happened with those funds in a particular year should be presented to the ministry and to the parliament. Thank you.

**Hon Chairman:** The AG is starting to touch on pertinent areas inside the bill, which maybe later on when we go clause by clause he may want to raise them again for the responsible ministry to respond to. We acknowledge the legal draftsman here, but maybe when we go through the bill clause by clause, we will need you then. We are going to need all of you when we go

through this bill clause by clause. Any two more officers wanting to make any submission before it is opened up for general discussions.

By way of general discussions on the points raised by the PS and the points raised by the PS of the Ministry of Planning and the Auditor General. First of all to the AG, maybe he can help us out to really understand how this bill is structured. We understand that a much bigger thing will come later on from what the PS was saying and what come before us now is regulations. Could you elaborate more on that because what we have before us is an act of parliament? So in what sense is it a regulation?

**Mr Ranjit Hewagama:** My understanding of this bill is that it's a bill to regulate the disbursement and management of funds that are allocated to a constituency, so it is really a bill and not a regulation as such. It is really designed to regulate the procedure but that does not mean clear regulations, it is really an act of parliament that has to be enacted by parliament and so it is different from a regulation. But there is provision for regulations to be made under this act to meet various circumstances.

**Mr Chairman:** Just by way of structural questions. What are the regulations we will be expecting to come before it can make this bill to work?

**Ms Selina Boso:** The regulations will come later should there be a need for it after this bill is passed, if it goes through parliament.

**Mr Chairman:** PS, after discussions, maybe there is certainly need for some serious regulations to come. Regulations are what make a bill to work. What you have in the principal bill is just statements of policy turned into legal working but to really make the bill work there is need for regulations. The need for regulations, so who determines that? Is it the ministry and the government?

**Ms Selina Boso:** Yes, the ministry is the one to be responsible to develop further regulations to this.

**Hon Matthew Wale:** Just a few general questions first. The first one is, have there been any consultations beyond perhaps government caucus and cabinet, since it has now come here. There seems to be a lack of input from public and other stakeholders that might have interest. I would like to know whether there has been consultation and what is the scope of the consultations, how wide is it. And are those views taken onboard in the construction of this bill?

**Ms Selina Boso:** Initially, late last year there were some consultations made with some members of the public. I think the Chairman of the Bills and Legislation Committee has been also called upon to talk about this constituency bill. But there is a strong push from the government to ensure the bill is brought to parliament.

Yes, it also went through caucus several times. In fact that is the reason why it has taken some time before it just came here. It went through caucus several times and then finally to cabinet, a number of times before it finally came here.

**Hon Matthew Wale:** My next question is with regards to whether it's by default or design but where do you see constituency sitting down with regards to provinces or state government if it does come. And the move in the direction this bill is taking, how do you look at the broader picture here?

**Ms Selina Boso:** I think that is the real issue for us to hold further consultations with provincial governments and the constitutional reform unit. But this constituency is looking at the governance system down there at the local level, which is what I think we want to have in place. Further consultation will come up with the structural arrangements that we are looking at because currently we are operating in that system, we operate through the constituency, but how to harmonize what we currently have is something that we are going to further pursue. In

fact, consultations have been done but we have not pushed on further with it, and this bill had to be brought here before parliament. Like I've said further work needs to be done in that regards.

**Hon Matthew Wale:** Just one last question at the outset and perhaps the legal draftsman can help out here. The bill as it is at the moment, this governance you are talking about PS, is totally absent. And that is the issue raised by the Auditor General; there is no governance structure in it and that is why there is no committee, the CDO and MP are becoming too powerful inside this bill. And so the bill is regulating but it is merely codifying the current practices. In some ways it is good in that it is codifying so that we know how it ought to be done.

But my question is because it is setting up a fund, although there is no central fund as such; the funds are held in 50 constituencies' accounts, why not use the current powers of the Minister for Finance in setting up that fund so that it is subject to financial instructions and subject to the Auditor General and where it can be much better regulated than this bill is pretending to. Why have you opted to go that direction with this bill as opposed to doing it under the hand of the Minister for Finance because it is not doing anything more than that. What in the bill is more than the powers the Minister for Finance already have that made you come to this bill? I think that is my question.

**Mr Ranjit Hewagama:** In this instance we acted on instructions issued to us by the ministry and to regularize as to what is happening at the moment. But in clause 11, it is stated that constituency development officers will follow procedures laid down by the Ministry of Finance; financial instructions and others will be followed. There is also the need to maintain proper accounts, registers and accounts as prescribed by the ministry. So I support that that maybe the way in which the Minister for Finance will control the operation of the funds.

**Mr Chairman:** The funds are already public funds and by virtue of the fact that they are public funds they are already subject to the rules laid down under the Public Finance and Audit Act and the Financial Instructions. My question is, what this bill is doing now; we have this

constituency development fund bill. Basically as the Member for Aoke/Langalanga said it basically establishes the constituency development funds, but when it comes to control, management and so forth, we already have the Financial Instructions and the Public Finance Audit Act and are those not already enough? If we are to go down that line and say that there are already rules in place and so we leave it as it is, is it not going to be proper?

If we need to come up with an act of parliament, we really have to establish the governing structure, office committees, like what the AG has been raising. This bill basically falls short of doing that, it did not create the constituency set up as such to do these things. It actually rely on Public Finance and Audit Act and Financial Instructions and such which are already in place and by virtue of these laws, the funds are already public funds and they are sort of subject to audits already too. Unless there is anything more than that then there is a need for this bill to come at this point in time, if not then do it under the Public Finance and Audit Act and the Financial Instructions. How do you see that?

**Mr Ranjit Hewagama:** I think that's a matter the ministry has to answer because I acted on instructions issued to us to regulate the existing system; to add a new structure like a committee than other that we appointed is a matter that the ministry should address, it's a policy matter really and is not a drafting matter as such.

**Hon Derek Sikua:** Just a general question in regards to the constituency development profiles. I understand this work has been going on for some time. PS, can you brief the committee which constituencies so far already have constituency development profiles and which constituencies are not doing any work on this as yet. I understand that this work has been going on for some time already.

**Ms Selina Boso:** Yes, we confirm that a number of constituencies do have constituency profiles. To date, what have been input into our data base system that is currently being developed, about 33 constituencies do have constituency profiles. I am sorry I cannot list down the names at this time but there are about 33 so far that have had their constituency profiles

submitted to the ministry and are currently being inputted into the ministry's data base so that into the future this is what is going to form the basis of the CDP and actually look into the view of the ministry's plan to link constituency development offices to the ministry through the establishment of a website where constituency offices will be able to link direct to the ministry headquarters for planning and development purposes.

**Hon Milner Tozaka:** Just following on from the point by one of my colleagues here about provincial government where provincial assemblies are the authorities and they also have funds – the provincial government fund which is set up by legislation/regulation and also institution and that is the provincial government. What is this? This one does not have any institution; it does not have any organization. If we pass this bill, you are expected to build an office for North Vella. That is what it says here. And you must also provide everything for the office; what it says in this bill here has to happen. But if it does not happen then do not ask the Auditor General to audit the accounts; don't ask him, there is no audit. I am saying this because there is going to be only the two of us. Even at this time; I mean I am talking about practical situations of this bill; we have yet to appoint some of our CDOs, and this is going to take time too. This Bill is saying that the Auditor General has to audit us, we must do things properly according to Financial Instructions, according to this and that. I cannot do those. So in other words in the meantime while we are doing all these things whilst we wait for the federal system of government, we still need to work with you, you are still the ministry responsible, and everything has to be done through administrative convenience; that is our understanding and that is the only way we can work at this point in time. But to do this, in my view, is a little bit of hypocrisy, I think; sorry to say that, something is not ready.

I support you, PS that the first thing that has to come is the constituency bill. We would like to see that constituency bill first before we discuss this bill. That is my comment on this.

The other thing is that there are 50 constituencies and the funds that are allocated to these constituencies do not come with any formula, they are not based really on formula and so all of the constituencies are receiving the same thing and the same amount even though some constituencies are much bigger but they all receive the same amount. We need to look

into this as well before things can happen and be fair to us. That is just a general comment I am making.

**Hon John Maneniaru:** I thank all of you for coming before the committee. A question I have is, and this actually relates to the point raised by the Auditor General in looking at the provincial governments, and my colleague here has just talked about this. In regards to development in the constituency, and constituency is part of the provincial government development plan where can we distinguish the plans of the province and the plans of the constituency? Which development programs belong to the province and which ones belongs to the constituency because it is not very clear?

What has happened, in my view, is that the constituency is just trying to fill in because the development function is with the provincial government in the constituency. My fear is that there is going to be duplication and it will be costly. How can we link it and how can we categorise which development plans belongs to the province and which ones belong to the constituency?

I understand that funds go to the constituency, and here we are actually going away from the provincial government set-up and why? In the past, funds used to go through ministries to the provincial governments and to the people. There is a shift and I see that the issues underlying this shift are not being addressed. The general question I would like to pose here is where do we connect the provinces and how do we categorise the development plans that provincial governments through funds that go through it from the government and donor partners will be looking at and which ones belong to the constituency under this proposed constituency development fund bill?

**Mr Chairman:** Those are some real questions in terms of where the provinces fit in here. Would this whole idea of planning; how we come up with the national development plan would be the answer to this? I do not know how we are formulating the development plan; whether provinces are involved, constituencies are involved, who else is involved in coming up with the development plan so that the developments we identify to happen in the constituencies would

be funded by these funds. Developments that provinces come up with are addressed at the provincial level through funds going through the provincial government. May be this is a question on how we are formulating the development plan and would it help if it is addressed through the planning process?

**Mr Jerry Manele:** That is a very important question. Currently, we have the national development strategy 2011 to 2020; for the first time we have a long term plan. Before that, we only used to have medium term development strategies of three to four years. We now have in place a national development strategy - 2011 to 2020 with eight objectives. The Ministry of Planning is working on the implementing modalities and that includes out of the NDS, we are working on the medium term development plan, as I mentioned earlier should be ready at the end of July this year.

We are also going to work with the provincial governments so that they align their provincial strategies or plans with the national development strategy. Where the constituency development plans come in, the provincial plans are not really specific to each constituency, it is general in a sense, although it covers a province. Therein is the opportunity for constituency development plans. There is that opportunity there. Once the provincial plans are linked with the NDS, as I have said, it is important that the constituency development plan based on the constituency profiles is also in a way linked to the provincial plans, which in turn is supposed to be linked to the NDS. So the linkages are there; that is where the link should come in.

**Hon. John Maneniaru:** I just want to pick up on the point made by the PS about the province. I think accountability in the provincial governments is also costing rural people in the constituencies and the provinces. Some were not able to pick up on their functions. When we look at the constituencies, I think their plans are just there but the people actually miss out on the services. Currently, that is an issue with our provincial governments, especially the program under the Ministry of Provincial Government. Some provinces that perform and are accountable are moving forward and some provinces are still suspended from services. It is that linkage that we really need to speed up so that provincial governments are also held



accountable so that it is fair to all provinces because the recipients are the very people in the rural areas.

I understand that some provinces have not been receiving their grants for the last consecutive two years and nothing has been done about this. Something like that needs to be in place so that we link the national government to the provincial government and to the constituency. Make that linkage to be solid so that the service delivery we are trying to regulate here really takes place. That is just a general comment.

**Hon. Milner Tozaka:** PS, my question leads on from what my colleague has just said is that gap, that friction or that conflict between provincial government and the national government. In implementing this bill don't you think that that gap will be widened? What I mean is that the mechanism for implementing this should be provided by the provincial government; that middle mechanism between Gizo and down or Auki and down. That is missing at the moment.

The idea of the provincial government is that they would like this fund to be paid into the provincial government. That should be happening. We are setting up this thing and it is going to further widen that gap. Have you discussed with them what their ideas are on this? What is your opinion?

**Ms Selina Boso:** Yes, I think that is part of the ongoing talks we have been having. And I must honestly say that we are going to hit the brick wall with this, but it is very important. The thing about this bill is that it will harmonise the systems that we have in place, just like what we have been talking about during planning. There is need for consultations at all levels, and I think this bill should enable that to happen down there, even with national leaders and provincial leaders and the system that we have in place. We note that there are already issues being raised in regards to what you have just mentioned in terms of funds not going through members of parliament but going through the current systems that we have. I just want to say to the committee that the Ministry will continue to dialogue on these issues in the coming months.

**Mr Chairman:** Good luck.

**Hon. James Tora:** Looking through this bill I understand that we are going to have other staffs that will be taken on board to man the constituency offices. Some of the offices have project offices and maybe sooner or later we will recruit accountants and secretaries as part of organizational structure of our offices in the constituencies. I would like the good Permanent Secretary to explain why that is not included in this bill. It could be later on as she said as they see fitting to make additional regulations.

**Mr Chairman:** I note the question raised by my colleague is maybe just to seek your view. They will be questions directly related to some sections of the bill, which will be better discussed when we go clause by clause. I will call on you to raise that issue when we come to the appropriated sections.

**Hon. Douglas Ete:** I am glad that at the moment we came up with a bill to codify - put rules by law, by virtue of legislation we are now codifying this.

What I am looking at in terms of wider governing powers is that we should at his stage resurrect or strengthen our institutions, the provincial governments. Slush funds are not big funds in other countries. You are actually putting to one Member of Parliament \$5million. We are not accountants, we are not engineers and we are not surveyors. It is the institutions that we must strengthen here by virtue of good governance in this country. We are treading on the wrong road here. That is my observation on the whole bill. Most projects will go to the hands of politicians. All the growth centres will be put into the hands of politicians. You are already doing that. The Ministry that was set up called the Ministry of Rural Development is a hub for corruption and stealing by politicians and their cohorts sanctioned by law. That is my observation - it is a hub to do something that is not right.

Instead of strengthening institutions, we are strengthening members of parliament. I am not saying we the 50 members who are now here but I am saying any member that comes in through winning the elections, any member that comes through the ballot box will come and sink into the system facilitated by your ministry.

I am not saying that every one of us is doing something that is wrong. What I am saying is many of us are not doing proper retirements, and you are actually putting funds into our hands to be that way. Instead of us strengthening institutions for good governance, we are instead strengthening those of us who are politicians. That is my observation of the whole bill. There is virtually no governance in this bill. Only administrative governance is here. There is even no corporative governance in this bill.

So Ms Permanent Secretary I want to ask you to really look again into this bill. I do not like this bill, I am not in support of this bill. I am talking like this even if I lose tomorrow in the elections I am not worried. Do something that is right in this country for the benefit of this country. A lot of times we are giving funds like the \$10million for growth centres to politicians. Politicians don't have surveyors, they don't have engineers, they don't have road makers. They are not supposed to be that way but you are actually putting funds to them and those funds run into millions of dollars which you have not accounted for them. Your Ministry does not account for those funds. That is the story of your ministry. I can see the funds, although we are codifying them today there are no proper rules to ensure we do the right thing. It is only a hub to do something that is not right. I am saying this with a spirit of a true Solomon Islander and a comrade of this country.

**Mr Chairman:** Thank you very much colleague. Those are very valid concerns. I guess the reality now is that we have almost about \$5million channeled through members of parliament, and I think it is in the interest of everyone, the public that funds that are channeled through members of parliament are used properly, transparently to address development areas that we want to address. Those concerns are very valid. I think the sentiments probably will feature throughout the clauses of the bill when we come to it.

With that, let us go straight to the bill while our minds are still right in the morning and let's go clause by clause on the bill. Please discuss and raise issues. We have the ministry and the Attorney General's Chamber here to help us out. Maybe some of the things that have been discussed already in general can be pinned down to specific sections, so let's allow that to happen.

**Clause 1:**

**Mr Chairman:** It says this is the constituency development funds act and shall come into operation when the Minister signs. When are we envisaging this? Is it when parliament passes the bill or how soon do you want us to implement this bill?

**Ms. Selina Boso:** In terms of Clause 1, I think the Ministry is looking at gazetting this bill early next year, January. This is purposely to allow for more education for our officers who will be working on the bill. We are also proposing to have seminars with MPs on this and that is why we need that time.

As we speak, in the next two to three weeks all constituency officers will be coming to the Ministry and we hope that if this bill goes to parliament and goes through, our workshops would be in line with the way this one goes. We need time to ensure there is awareness and education, not only for our officers but the public as well, and also sessions with MPs must be held on this whole bill.

**Mr Chairman:** Maybe the need to come up with appropriate regulations as well.

**Hon. Matthew Wale:** In regards to clause 1, I want to ask about the choice, obviously it is a deliberate policy choice. It states 'Constituency Development Funds Act' rather than the Constituency Development Fund Act. And it reflects down again; in the definition constituency development fund is money allocated to constituencies but obviously there is a policy choice not to have a central fund with perhaps a centralised governance system if it is too difficult to have lack of capacity perhaps governance system spread right across the constituencies. I would like to ask about the policy rationale behind that choice.

**Ms. Selina Boso:** Can you please repeat your question?

**Hon. Matthew Wale:** When a fund is established and the fund could hold 50 different accounts but it is only one fund. Like we were saying previously that could be established under the hand of the Minister of Finance under his current powers. But if that fund is set up like that and its regulations and financial instructions and everything else are centrally governed, its governance is a bit more manageable. I am wondering whether there has been a policy choice made by the ministry or the government not to set up one fund, a constituency development fund out of all constituencies; now 50 but next year maybe 70 or 100 constituencies will draw from that central fund. You are not setting it up like that. I am asking what is the rationale for that particular choice. Why you are not going with a central fund with a governance structure but you are going directly to 50 funds?

**Ms. Selina Boso:** I hope I am getting you clear. But constituency development funds will be referred to as a pool of funds that will be made available to constituencies. So it is like.....

**Mr Chairman:** Is it consolidated fund or is it a separate fund in the Ministry of Rural Development where all the funds from the different sources go inside?

**Ms. Selina Boso:** Yes, that would be it. We will have a pool of funds within the Ministry of Rural Development. Currently, we have a number of funds administered through the ministry and that is what we will see as constituency development funds from ROC, from SIG and from the different sources of funding agency. What we currently have in the ministry is what we refer to as the constituency development funds.

**Mr Chairman:** I see, so it is the various different funds that are held there.

**Ms. Selina Boso:** Each constituency has a share of that budget. Is that clear?

**Mr Chairman:** Agriculture funds, fisheries funds and so forth, now we take it will now be centrally managed under the Ministry of Rural Development. Is that what we are saying?

**Ms. Selina Boso:** That is the line of thinking. Yes.

**Mr Chairman:** I see. The consistency in the way the term is used, the constituency development funds under clause 1, and the interpretation under clause 2 says 'constituency development fund'. Just to be consistent, what should that be?

**Mr. Ranjit Hewagama:** I think the definition should refer to 'constituency development funds'.

**Mr Chairman:** Funds, with an 's'?

**Mr. Ranjit Hewagama:** With an 's' there.

**Mr Chairman:** Anyone on clause 1 and clause 2?

**Hon. Derek Sikua:** I find it easy to get around what my colleague for Aoke/Langalanga is trying to get at under the interpretation of clause 2. I want the Permanent Secretary to explain this properly.

First of all, my first comment on clause 2 is that constituency development funds means the funds allocated to constituencies under section 4. Section 4 does not talk about any funds but it talks about what it has there, 'constituency development offices and officers'.

Coming to funds, my understanding is that right now available to constituencies are funds that are made available to constituencies by the Republic of China in three categories; the RSD or whatever you call it - formerly the RCDF, the millennium development funds and the micro development funds. Those come under ROC. Then from the SIG is the rural livelihood and every now and again, it throws in a little bit of money for contribution to rural development. In my understanding those are the only funds that are available to members of parliament in the 50 constituencies for rural development.

Depending on which government is in power, members of parliament can receive allocations in the budget that are given to the Ministry of Agriculture, for example, for cocoa, coconut, teak and very soon will be cattle. And there are two types of funds under the Ministry of Forestry for downstream processing and reforestation. And then there is the Ministry of Fisheries for fisheries project and the Ministry of Health for rural water supply and sanitation. There is the church contribution that comes from the Ministry of Home Affairs; tertiary support from the Ministry of Education and youth and sports and women development from the Ministry of Women, Youth and Children's Affairs. Those funds are under the allocation of ministries I have mentioned. It is only the Government that makes the decision for those funds to be given to members, and this is crippling the work programs of the ministries I have mentioned because they don't have the funds. They have been drained out to be given to members of parliament to do the work, which is what my good colleague member for East Honiara is not happy about.

In this case, either in clause 4, it must have to specify the funds that I have mentioned. It must be specified there so that the government does not play around with the funds belonging to those ministries to gain political support or something like that. As the member for East Honiara mentioned, members of parliament do not have the support to look after all these funds. There needs to be specific mention of which funds, which rural development funds we are talking about in clause 2. But if you want to do it, do it under section 4. Section 4 does not particularly specify these funds. It only talks about establishing constituency development offices, their management and the constituency development officers. You should really specify these funds there.

**Mr Chairman.** That is a very valid point. I think the sources of funds need to be defined say maybe under clause 4 in one of those subclauses. But we are putting it to you, may be you would want to respond to that.

**Ms Selina Boso:** I think I have mentioned earlier on that if this bill is passed we will look at implementing it next year. It would set forth the budget formation of 2014, if we look at it

carefully. Like I have mentioned today, the line of thinking is that any funds that are currently administered through constituencies that are sitting down in other line ministries must come under under the ministry responsible for constituency development, and that is the Ministry of Rural Development and according to their budget heads each constituency should have equal allocations of it. Thank you.

**Mr Chairman:** The Committee feels very strongly that those sources must be defined and so forth and that could be done through the main body of the principal act or the regulations because depending on the change of government the name also changes; the funds and so you can easily change the regulations instead of bringing an act of parliament to come here and amend it again. So maybe the timing of implementing it next year is very appropriate, and you definitely need a lot of regulations to come before this Bill can work.

**Mr Ranjit Hewagama:** I was about to say that. The sources of funds can be provided in the regulations. The details can be in the regulations rather than in the body of the act. Thank you.

**Hon Matthew Wale:** When that point is still hot; the definition raised by the Member for North East Guadalcanal, a definition defines the ministry for now to be the Ministry of Rural Development which is responsible for constituencies. Then clause 4(2) talks about funds allocated to the ministry for constituency development, so it would be the same ministry and for the time being it is the Ministry of Rural Development.

From what the Permanent Secretary was saying, it means the budget format will change once this Bill goes through because funds will no longer be in the development estimates for agriculture, tourism, fisheries because all these funds will now go through the Ministry of Rural Development. Then it starts questioning the capacity of rural development for agriculture extension, tourism and the others. So there are bigger questions at play here but obviously this is either by default or design, and if it's by design then the committee needs to be cleared how the other questions are going to be tackled to hold it up when it becomes an act so that it functions properly.



The risk is, of course, and I take the point made by the Legal Draftsman that sources of funds would be specified from time to time in the regulations. But I am concerned because we can change the line items of the budget. What I mean here is that we can change the items around. We define the ministry here in clause 2 and clause 4(2) states 'funds allocated to the ministry', and so from what you said Permanent Secretary all the funds from the other ministries are allocated to your ministry, the Ministry of Rural Development.

But if the Prime Minister wakes up one morning not happy and decides that in the budget next year allocations will go back to the Ministry of Agriculture and so forth then this is run afoul of this clause 4(2) and those funds will no longer be rural development funds because it will be only funds not allocated to your ministry. You cannot go to the regulation and say 'the Ministry of Agriculture too' because the regulation will be ultra vires, this clause. That's the concern being raised here. Mr Draftsman, is what I am saying right or not?

**Mr Chairman:** Draftsman, do you want to comment on that just to clear any doubts?

**Mr Ranjit Hewagama:** That's a policy matter and I don't know how I am going to answer that question.

To my understanding the ministry concerned now is the Ministry of Rural Development and if it is going to be allocated in some other form, I cannot answer that question.

**Mr Chairman:** It is a policy question.

**Hon Matthew Wale:** It would be ultra vires if it was ...

*(inaudible)*

**Mr Ranjit Hewagama:** Then we would have to wait and see what it is going to be like. In the regulation if it specifies the ministry or the source of the funds, I don't know how it is going to

be reworded, like what instructions I will get on that. It's a matter we will have to wait another day to see if it is ultra vires or not. At the moment I cannot answer that question. Thank you.

**Hon John Maneniaru:** Just on the point of specifying the funds. I think the Leader of Opposition has pointed out very clearly the need for that to happen.

In regards to how those funds trickle down to people who needing them, I think the Leader of Opposition has highlighted current issues like politicising of the ministry's funds. I would like to commend the ministry and the Permanent Secretary of Rural Development at this instance.

Now with the disbursement of funds through the Ministry of Rural Development going down to the 50 constituencies, whatever happens to those funds is up to the Member of Parliament. In the past some of our constituencies did not even know there are funds under the Ministry of Agriculture or the Ministry of Fisheries because they could be highly politicised or the officers have their own criteria and conditions as to the recipients of those funds. And so I would like to commend the ministry because at the moment the 50 constituencies are receiving funds. Here we are talking about the balance Solomon Islands developed; in the past it was not. If they are specified and the funds come under this one for the constituencies, I think that will avoid weaknesses in the current system. Thank you.

**Mr Chairman:** Thank you very much. I think the Ministry takes note of that commendation.

Clause 3 touches on the objects, and the first question from me is the key words coming out from there are 'disbursement of constituency funds is carried out with integrity', 'prudent manner' and 'safeguarding the interest of potential recipients' and to go back to some points raised by the Auditor General.

What is your view, and the way we look at it, and maybe sharing the view expressed by the Auditor General is whether we can achieve those objects without properly setting up a constituency, and I think the point raised when general discussions were raised, without setting up proper governance structure, proper constituency setup, how do you propose achieving that, safe guarding the interests and potential recipients without the involvement of people

themselves, for example, in the governance of the funds and so forth? How do you propose to achieve that, just picking up on some of the concerns that have been raised earlier on? What is the view of the ministry on this?

You are saying good things here. Your objects and responsibility of this act is to ensure that the management and disbursement of constituency development fund is carried out with integrity, prudent manner, safeguarding the interest of potential recipients, without a proper setup in our constituency you probably will not be able to achieve these objectives.

What is your view on that? And maybe thinking further it will be addressed under the regulations.

**Ms Selina Boso:** On clause 3, in the view of the ministry, we are aware at this time that the establishment of constituency offices down there, legalizes those entities to manage and disburse constituency development funds. That is one good thing because we will be looking at strengthening those entities down there and that is why we are equipping those offices with staffs and things like that. Definitely, the administrative process of constituency offices is the responsibility of the ministry to ensure it strengthens those entities to be able to deliver down there at the constituency level.

The other part is again, the basis of the CDP calls for much wider consultation with people down there at the constituency level. It should bring in much greater participation of people in the way development should happen down there at the constituency level. I think those areas are giving a bit more transparency in how development will happen down there at the constituency level so that the basis of having the constituency development plans and profiles are important in terms of ensuring greater participation of people where today we are seeing a lot of complaints because people are not aware of development projects until such a time MPs go down and inform them before they know of development projects as such. I think that area is also an avenue we see as important in ensuring that there is integrity in the way we are carrying out the management and disbursement of funds.

The constituency development officer as a public officer puts more weight in ensuring that the accountability of funds is the responsibility of the officer and the constituency office.

Whilst a member for parliament maybe endorsing projects, he is at an arms-length in terms of the whole accountability process.

If we go down further to the other clauses, the funds we are talking about here will be geared towards projects; all the developments are projectized. There will be no avenue to dish out assistance for sea fares and things like that. Therefore, those funds will be put to tangible developments that we would like to see down there at the constituency level. I think that is an area in terms of the bill here. With those few inclusions in the bill, we believe it's a way of starting off to ensure we begin to properly manage the way constituency funds that go through constituency offices are disbursed in a transparent and equitable manner according to what we want. Those are just a few comments I would like to make in terms of clause 3.

**Mr Chairman:** We probably can appreciate what you are saying. Maybe that is true about funds that are specifically, say agriculture funds, fisheries funds in which that fund must go to fisheries or that fund must go for agriculture, must go for teak, it must go for things like that; it is specific. But when it comes to the RCDF, and there is about \$400,000 for that, what we are getting from the PS is that, are you going to projectize that fund too and so a member will no longer have any discretion as to where he might want the funds to go towards? If discretion still remains with a member of parliament then he needs to set up his constituency to assist him facilitate his discretions.

The other point you raised about people's involvement through the CDP and then the end of the story, is that a good way of doing this or people should continue to be involved, even in the implementation stage of the funds? It should not only be in the planning stage that people are involved, say for example they submit their thinking for a clinic to be put up in that place and then finish. They should continue to be involved even in the implementation stage of the funds. What is your view on that point?

**Ms Selina Boso:** Yes, chair I think the involvement of people, the participation of people must be from the start to the end. I think that is important. These are things that at the ministry

level is our role to really strengthen the constituency offices and our officers to ensure that this does happen down there.

Yes, we want greater participation of people from the start until the end in terms of implementing projects so that ownership is there and that they know what is to be developed down there in the constituencies. The ministry has a big role to play in terms of this whole idea of the bill to really strengthen the capacity of constituency offices and the officers at the same time so that all the planning processes must be done with the people. I think that is important.

**Mr Chairman:** So how do you propose to achieve that without addressing the governance structure in the constituency? Can you clarify that further to the Committee because what we seems to be talking about is the role that the ministry will continue to have a big say, and the ministry is located here in Honiara and these things are happening down there in the constituencies. How do you propose to achieve that without addressing first the institutional arrangements in the constituencies, the proper governance structures down there and so forth and people's involvement throughout? You said that people must be involved throughout, but they are not here, just exactly what is happening today, this is just going back to the status quo, people are not really involved. The way it is structured here is a member of parliament and the CDO decide on the plan and then it goes ahead and so people are still far removed from the implementation. We may consult them at the CDP stage but I think the implementation is still very weak; their involvement.

**Ms Selina Boso:** This process of constituency profiles is important at the level down there. A lot of workshops must happen with people to build them up in terms of planning. I think that is very important and that is one of the areas the ministry would want to see. Capacity building down there must happen through workshops and that constituency profiling and developing of the CDP should encompass activities to happen so that we strengthen the local institutions that are in place within the constituency. This is because we believe we also have a lot of support groups down there like constituency committees which some constituencies have and we have other institutions there as well. Like I have mentioned in my earlier statement the need to

harmonize or coordinate with everyone is important. That is where I think it is important; the basis of the CP and CDP should actually enable people to come together and set forth the plans of the constituency and thereafter the implementation of development projects should be done in partnership with people who are also involved in such a process. I think that is the part the ministry should be looking at as it is very important in terms of ensuring that that happens at the constituency level.

**Mr Chairman:** PS, I think that is still sort of arms length. We want an ideal situation where if a workshop is going on in North East Guadalcanal, a workshop too must be going on in East Choiseul. Right now we are waiting for the ministry up here to go down to run those workshops. If you are putting \$5million through the constituencies, and this is a budget bigger than some of the small provinces' budgets, and if there are no administrative setups there to administer these funds, what are we trying to do here? Are we putting up something just to window dress something and say we are doing something? We are really not doing anything PS, is the point that I am trying to drive at here. Unless there is a proper governing structure at the constituency level and properly staffed, you will not achieve many of the objectives that you are talking about in here. That is the view held here.

I do not know, maybe others would like to talk more on this, but we take note of what you are saying. Unless there are any other colleagues who would like to talk .... Maybe the AG would like to make some views on that.

**Mr Edward Ronia:** That's the think I am becoming very concerned about every day of my life. The wording sounds so good but the reality of it is that it is not staffed. There is no way that funds cannot be misused and misappropriated because CDOs are given a lot of powers. So if we are going to have a bill to safeguard this area I think we must put it inside this highest level act rather than thinking that we should rely on regulations and policies that can be bended by people every time. But if it's in the act then we can always make reference to higher authority that governs how we should do it. At the moment it is entirely in the hands of the CDO and the constituency member. This act therefore should provide for how the constituency should be

involved in development. And looking at the protection of the potential recipients is not talking about development here – recipients of money that are being released is in here, but I am thinking the structure for it to operate should be established properly. At the moment I don't see a structure that it can operate properly on.

**Hon Douglas Ete:** I appreciate the comments of the AG. I am not convinced with the discourse the PS has been telling us about. I am going to give an example here; firstly I think a governing structure is absent in this act. I am not convinced that we are going to start. We are not starting anywhere, we are creating a new animal here by virtue of a legislation. We are enacting an act here and so if you want us to do it then let us do it now. We do not know because we could be starting here and proceed on but when are we going to improve it. An act of parliament is an act of parliament so let us sort it out here.

Coalition governments provide for weak governance, and we can debate that here. But changes of government can happen over time, so when we are able to tidy up any legislation now let us tidy it up now. I did not see any proper governing structure in this bill and I am not at all convinced with the words of the PS. For example, it takes about one year and five months to audit 20 constituencies and the reports of those audits are not even available until today. When are you going to audit the accounts of the other 20 constituencies? The evaluation program that came, East Honiara was the first one but other constituencies are yet to be done. You do not have the capacity to do it. The CDPO is doing the same job as the CDO. There is virtually no terms of reference for him.

I am saying this because we are resurrecting Lazarus from his grave; we are calling forth Lazarus from the grave when he was already dead and rotting away for three to four days. You are instead bringing here a legislation thinking it will improve it.

I am one who has been already criticized in the newspapers. Many of us politicians have been criticized in the newspapers. And so if you are codifying this thing, we want you to do it properly and do it now. Now is the time to fix this bill. I cannot see any timeframes for audits, I cannot see what sort of reports will come up; I can only see how it will be implemented but I cannot see the governance of implementation. What you are doing now is institutionalizing and

creating an animal called constituency development fund for each constituency. That is all I can see in this bill. But you are going to do it is missing from this whole bill and so I am not going to support it.

My comment is that so far there is no capacity in the Ministry of Rural Development. I am saying this because there are no reports from the 20 constituencies from the audits that were done last year in June. We are now one year down the line and you even did not audit the other 20 constituencies as of to date and that is why I am asking when you said you are going to be accountable.

One last thing I cannot find in the bill is punitive action that will be faced by a member of parliament who misuses the funds when the report is produced. I cannot find that in this bill because we are going to be held accountable. Today I want to tell the country that many of us MPs are going to prison if we do not set the bill correctly here. We have to do it now and we have to do it properly here. I am not really convinced with the words of the PS.

**Mr Chairman:** Thank you very much colleague. Would it be appropriate to say that we are envisaging some regulations on these areas? The setting up of a proper governing structure to support these things, and the points raised by these colleagues are very important. This time period now until next year, maybe you should take up the points that have been raised; maybe they are points that need to be taken up in regulations to properly implement the intentions of this legislation.

**Mr Ranjit Hewagama:** We have taken note of the points that have been raised, the concerns that have been raised, and I suppose it is up to the ministry to come out with whatever is necessary to put into the regulations and I will act on the instructions received from the ministry to sort of tighten the framework there.

**Hon Matthew Wale:** Obviously, the policy choices have been made by government. But like you've said, the two key words in the management of these funds are 'integrity' and 'prudence' to prudently manage the funds. In the earlier explanation of the lady PS, she said that MPs are



arms length, but when we go down further in the bill, this arms length could be just one fathom or half fathom; it's not really distant to be able to meet the good governance requirements of the Auditor General, the points continued to be reiterated by the Auditor General that there are no clear division of duties; the CDO and the MP are too powerful, and this links to what the Chairman of the Public Accounts Committee was saying. Did you hear the cries of the heart of the Chairman of the Public Accounts? I think that is a good cry because he is concerned about public interest.

You mentioned prudence and integrity in clause 3 but when you go down and give some powers to the CDO and the MP, those powers seem to fly in the face of prudence. They are not prudent at all because the arms length is just half a fathom, the distance and it certainly questions integrity, it puts the member and CDO in a difficult situation because when there is pressure, people are prone to make rush decisions when paper trail and so forth are not there, so whilst the object is clear for integrity and prudence, the rest is set up as the opposite, I think it is a risk to the MP and the CDO.

Secondly, at the end of clause 3, it says 'with a view to safeguarding the interest of potential recipients of the fund'. If it is just potential then there are 600,000 potential recipients in this country for the fund. I think although it is a general clause, may be a better wording might be 'to safeguard public interest or safeguard public funds' or something along that line, as opposed to potential recipients because who are these potential recipients? I mean everybody is a potential recipient I suppose, and it may lead to liability later on because as we always know all sorts of lists can go for those different lines and if funds are not sufficient to meet the whole list, then those that are left out who are also potential recipients could come under this clause and say that their interests have not been looked after in a prudent and integrity manner. The clause just leaves it too open because of its construction. And so my second point on this construction is to do away with 'potential recipients of the funds' and put 'in the public interest or in the interest of proper management' to make it a little bit generic.

But coming back to the cry from the heart of the Chairman of the Public Accounts Committee, I think is the cry of the whole country. The discussions, I am sure in caucus and in cabinet have been difficult ones because members of parliament are involved intimately,

intricately and in detail on how the funds are apportioned and therefore it is difficult for some members of parliament to let go of that because it is tied closely to votes, elections and favours and so forth. But if we are talking about integrity then that is precisely why this arms length must be more than one fathom; that is why a member should be totally out of it. He should only be involved in planning and must remain as part of the legislature, part of parliament.

This flies in the face of separation of powers where parliament legislates and the executive implements; parliament approves the budget and the ministries who are the executive implements the budget. But now all of us members of parliament have also become executives too. We too must make executive decisions and we too must implement those executive decisions. This flies also in the face of separation of powers and that is why the Auditor General was having a heart attack in that he felt sick when he heard about this bill, and rightly so.

A member of parliament cannot play his oversight function as effectively as is required by the constitution because he is involved himself, there is conflict of interest when it comes to decisions that he is directly involved in and he acts as executive on them. These are not cut and dried but the principles I think are very clear. I think the consultations that you have been doing have become very obvious. We are still stuck on clause 3. We are struck because it would seem that consultations have not gone deep enough, not gone wide enough, not gone high enough (just like the love of the Master; high, wide and deep) so that we embrace everybody's views so that we know what is good for our country. I am saying this because this fund is going to grow more and more; more than any other other funds.

Just looking at it over the last five years, it has gone from very small to huge and it will continue to grow. I would like to ask this question: is not late for you to go back and consult again? Leave it as it is, go back and consult again. Even this Committee would also like to make wider consultations but time does not allow it. But if the ministry can go back and say what the bill is trying to achieve is already achieved, it is the current practice so it is not a case that we might be losing time. No, because it is just the current practice that you are codifying and so the current practice can still continue on. But if you go for wider consultations, broader and deeper consultations, I think you will rectify the core issues.

Separation of powers, to me, is a core issue. Parliament must be separated from the executive but that is not being addressed in this bill. This bill is flying in the face of it. The role of a member of parliament to go down further, if you are talking about integrity and prudence, and the arms length you have been talking about is not in the bill. You are only talking about this arms length but the bill is flying in the face of it. He is too intimately involved. If you want integrity, you remove the member of parliament from it, and then this whole governance structure. You talked about harnessing all these things because constituencies will have committees, but all those are in the discretion of a member of parliament. When a committee does not function, the member of parliament can decide to forgo the committee and he makes all the decisions himself. The place for governance, according to our views, is that it is pre-requisite, it comes first. And it need not come in legal language, I mean it need not come before this bill, they can come together, but they must come together, it must not come after. That is our concern.

I want to ask the PS, is it too late for her to go back? She can leave the bill here as it is and allow for wider consultations because just look at the face of the legal draftsman, he is very concerned.

**Mr Ranjit Hewagama:** I noted the points raised by the committee members, but at this stage it is not for me to decide as to whether we are going to change the bill or not, the wording in the bill because it is a government bill. All I could suggest is that the Committee makes its recommendations and comments for the Cabinet or the government to consider, and then give me instructions as to what I should do. I cannot decide for the government now.

**Mr Chairman:** Thank you. I think that is the way to go. The Committee will express its views and makes its recommendations and we will make very strong recommendations. In the interest of everything, I think the government must be genuine too. It is saying a lot of good things in here, and if we are genuine about these good things then I think the way the Committee sees this thing and others more who would be coming to express their views on this bill can be taken note of by the government. Maybe that's the way to go right now. We will

express these strong views and then make recommendations to the government and the government through your ministry since this is now processed through parliament. But these are powerful thinking coming from those two mighty people sitting down on the other side there. But let us proceed.

**Hon. Derek Sikua:** Just a quick question on clause 3 before we move onto clause 4. The object and responsibility of this act is to ensure management and disbursement. Is there any particular reason as to why monitoring and evaluation is not included? It's on management, disbursement, monitoring and evaluation of the constituency funds. Or are you taking it that management means the whole process of monitoring and evaluation. Is there any particular reason why you have not specifically put in monitoring and evaluation of constituency development funds?

**Ms. Selina Boso:** I think that is taken care of in clause 14, which should enable monitoring and evaluation to take place.

**Mr Chairman:** And it is done centrally by the Ministry?

**Ms. Selina Boso:** Yes, the intention of the Ministry is to have a monitoring evaluation unit in place...

**Mr Chairman:** Centrally located in the Ministry?

**Ms. Selina Boso:** Yes.

**Mr Chairman:** You are going to have a hard time with this because you are talking about 50 constituencies on a daily basis. Any way but we will express some views there.

#### **Clause 4**

**Hon. James Tora:** I was asking a question very early today on this, but now is the appropriate time to ask this question. If the Permanent Secretary can inform the committee about additional officers to be recruited in these constituency offices in the structure.

**Mr. Clezy Rore:** Yes, the Ministry is in the process of recruiting project officers. Although we have a problem with the establishment that there is no budget for that, we have consulted the budget unit and the public service and cabinet has given us approval to recruit so we are working on a supplementary budget to cater for that. So project officers will be recruited sometimes this year.

**Mr Chairman:** So it is very specific here, it is just constituency development office and if you are intending to recruit more people here, then you might as well use some sentence here that can give that idea that you are going to recruit some more people because it is just very specific on constituency development officer.

We reiterate the point again that all the objectives of this bill will only be achieved if we have properly staffed governance structure in the constituency and that is very important. Failure to do that will result in all the things we are talking about will be a failure. But we will express those views to the Committee.

**Hon. Derek Sikua:** Just along those lines, clause 4(3) can be reworded to cater for constituency development officers rather than just a CDO. My understanding is that currently some of us have constituency project officers who are already in the payroll. Now that you have approval from cabinet is good, but currently some of us already have CPO's who are already in the payroll, so you need to look at catering for those two. For those of us who already have two plus any other officers that will come in the structure later on under clause 4(3).

**Mr. Edward Ro'onia:** Clause 4(3) can I just make a general raw statement about a public officer. Can you make reference to that law that governs the appointment of public officers that are appointed under the public service act or whatever?

**Mr Chairman:** That's a point. AG, can you make any.....?

**Mr. Ranjit Hewagama:** A public officer is defined in the constitution; and so a public is a person who is appointed in terms of 116 of the constitution and paid out of the consolidated fund. It could have been more specific but I don't think there is any problem as it is worded at the present moment.

**Hon. Matthew Wale:** But the point of the Auditor is that it us members who appoint people to become CDOs and so a CDO can be like a campaign manager and so this arms length the Permanent Secretary is talking about which is half fathom has now become shorter less than half a fathom. This is because a CDO must be an MPS main man because he is going to carry out those activities and they are all political things. The part in the constitution that defines a public officer seems not to work in the current appointment of CDOs, and this merely codifies that practice. That is, I think the concern being raised by the Auditor General.

On clause 4(1) - constituency development offices established, why are you saying 50 because it is going to be 70 next year? Why can't you just say 'in all constituencies' because there will be 10 women next year who must have 10 constituencies too, I think and then another 10, like Small Malaita will have one and others as well. It is just the construction. I suppose when the constitution is amended to reflect that, it will be carried right through, but I mean we are just making it a bit cumbersome unnecessarily.

My second point is what you seem to have alluded to earlier. Obviously at some stage the offices must have an accountant or a cleaner because right now this seems to be an exclusive list; it doesn't provide for 'any other person as directed by the Permanent Secretary or by the CDO or by the Member or anyone. I am just raising whether this is a policy choice for this to be just like this and that's it. I mean if you are talking about prudence and integrity in

clause 3, then it should have an accountant to help the financial controller at the headquarters. But where is that going to come in if it is not in clause 4, which enables recruitment. That is my question.

**Ms. Selina Boso:** I think in terms of capacity as I have mentioned, the Ministry's plan is to have another additional 50 senior accountants to be in place down there. That is the whole proposed plan - a constitutional development officer, one project officer and a senior accountant. These are all contained in the corporate plan which will be pursued this year to have these additional staffs. And so this year there should be 100 staff down there in the constituencies; 50 CDOs and 50 project Officers and the intention is to have senior accountants. That's really the model of the Ministry. Does that clarify the question of the Honorable?

I think the concern raised by the Leader is taken note of, to be specific. But that is why in clause 2 we put 'each officers' because there is the plan to recruit more officers and that is why it is not specific so that whatever officers are further recruited are included in there. But the concern raised by the Leader is well taken note of, and I think it is important that it is specified. But the plan of the Ministry is to recruit an additional 50 senior accountants.

**Mr Chairman:** So the act would have to be structured in a way that it incorporates that intention. We will raise our concern that this bill does not cover enough. This is one of our recommendations to the ministry.

**Hon. Milner Tozaka:** I want to follow up on this constituency development office. I am very pleased PS when you said this is going to start next year in the 50 constituencies. Do you have any policy to set up those offices? What I mean is that when this bill is passed, automatically all those 50 offices cannot come out from the constituencies. We will have to negotiate because they have to be built on land, and there is surely going to be a land issue.

Like for us in North Vella if I have problem with land dispute in setting up my office, are you going to leave my constituency and you go to another constituency? Is that the way you

are going to do it? What is your policy now in working towards setting up these 50 constituency offices eventually?

**Ms. Selina Boso:** The policy view is really the setting up of constituency offices is looking at constructing the physical infrastructure or renting at provincial headquarters, for instance, when we cluster the constituencies where possible.

I acknowledge that we cannot overnight get 50 offices on the ground, but I think we must appreciate that some members of parliament have taken the initiative of setting up their constituency offices already throughout the constituencies, and even at locations that is accessible to their people. There are constituency offices already in place and the view now is to construct offices that are needed that do not have land problems. We will seek budget support next year for establishment of constituency offices. Where it is possible to rent, we will rent first for a number of CDOs or officers that can sit down at the provincial centres. I think that would be the gradual movement into how we will address this to ensure that eventually we will have 50 constituencies. But we hope not everyone will have land disputes because we want to go where it is free.

I think the strategy of the government in developing the economic growth centres would be an avenue to support the development of constituency offices in our locations. I think that policy should also assist the whole idea of establishing constituency offices. So where economic growth centres are, constituency offices are in that vicinity.

**Hon. Derek Sikua:** Just following on from what the Permanent Secretary was saying, some of us from Guadalcanal find it easy to rent an office in town for our own constituency offices. Our headquarters too is also in Honiara. So in the case of Guadalcanal MPs can you help us? I know you've helped us with furniture and things like that for our offices, but we moved out of that office because it is not really good and we moved back to your ministry. But in the case of us from Guadalcanal, can you rent an office for us in places that can be located in town, like you are doing for other colleagues in their provincial centres.



**Ms. Selina Boso:** It is a priority area for the Ministry to look at. In this year's budget there is nothing for that but we will seek for supplementary for a bit of money for rental for offices that are currently in place.

**Mr. Jerry Manele:** I will be very brief in addition to what the colleague Permanent Secretary for Rural Development has mentioned in terms of the various proposal and plans the ministry has. But before I go into that, there seems to be the need for clarification on the interpretation of clause 2 and clause 4(1). In terms of the management of constituency development funds, the interpretation on clause 2 implies the ministry and in clause 4(1) it is suggested that will be on constituency development officers. Technically, which one of those two is going to really manage the funds? Is it the constituency development officers in the constituencies or the MRD? If that can be clarified by the draftsman or the AG's office.

A general comment in addition to the various proposals outlined by colleague Permanent Secretary in order to make this work, I think it is important that the constituency development plans (CDP) have to be in place first of all so that when we set up in the constituencies, those officers are set up there to implement the plans, the constituency development plans. Hence the importance of completing the profiles and the constituency development plans so that they go down there to implement the constituency development plans. There and then can we be able to do monitoring and evaluation.

We will do the monitoring and evaluation against the constituency development plans that are supposed to be in place. And MDPAC will be liaising with the MRD to see how we can help each other out, not only in terms of completing those plans, but also in jointly carrying out the monitoring and evaluation missions later on so that we can tell how much of those plans have been implemented during the course of the year and whether resources allocated for those constituencies have been put to good use or value for money.

**Mr Chairman:** In terms of the development profiles that some constituencies do not yet have, if we are going to implement this next year then those profiles must happen this year. So we

are expecting some funds from the ministry to help those constituencies that do not have constituency profiles as yet. That is very important.

I think the other issue raised by the Permanent Secretary is to reconcile clause 2 on the interpretation of ministry and clause 4(1). Clause 2 seems to allude that the Ministry manages the constituency development funds. I don't know whether those three words 'has been assigned' make any difference to its meaning. Let us have the AG to clarify that.

**Mr. Ranjit Hewagama:** Clause 2 the definition of ministry is to pinpoint the ministry that it is the overall ministry responsible for the management of the constituency development funds. In other words, it depends on the assignment of functions. The particular ministry to which the management of this constituency development responsibility has been assigned is what clause 2 is aiming at.

But clause 4(1) is really a delegation of function from the ministry to the development officers that are established in the different constituencies who will be responsible for the day to day management and administration of the constituency development funds. I think that is the distinction we are trying to draw out there.

**Mr Chairman:** Is that clear?

**Hon. Douglas Ete:** I agree with the Permanent Secretary that it is a little bit ambiguous. I think what you have said AG is what should have been stipulated in this clause. But as it is, it is not really clear because it draws a lot of interpretations as to who manages the funds because it uses the same words that are used in clause 2, the interpretation of the ministry as the manager of constituency development funds and the same words are being used in clause 4(1). To me this needs to be defined properly to have separation of powers as to who does what.

**Mr Ranjit Hewagama:** I don't think so, I think clause 4(1) is really talking about the administration of the constituency development funds whereas in clause 2 it is talking about the ministry to which this particular function has been assigned under the constitution, which is

a normal interpretation given in almost every bill. When it says ministry, it is the ministry to which these functions have been assigned or the responsibility has been assigned. But in clause 4(2) it is talking really about the day to day administration or management of the funds. In my view I don't think that is ambiguous. Thank you.

**Mr Chairman:** With that clarification, ladies and gentlemen we have now reached 12.30pm so what is your view. Do you want us to have lunch break first? We will suspend this hearing until 2pm this afternoon. Thank you.

*Hearing suspended for lunch break at 12.25pm*

#### Clause 5

**Mr Chairman:** We noted that that clause deals with the recipients of the funds. On clause 5(1) we have individual grouping income generating project as a community project and clause 2 talks about gender equality and combating gender discrimination. What is the thinking of the Committee and maybe the ministry is here also on this?

We are narrowing it down to gender equality, two times gender discrimination but what about the other discriminations, for example, discrimination against non voters. There are people who were not assisted at all by members because members just assisted their voters. If you did not vote for the winning member you are not going to be supported; and that's reality, it happens in a lot of constituencies. And so it's becoming a voter thing. If we are concerned about gender equality, gender discrimination then discrimination is also in that area. What about eliminating or combating poverty? The issue of sustainable development is not captured in the bill. Vulnerable groups are not. Okay gender is there but people with disabilities like polio, the widows are just basically left out in some of the constituencies and only the strong people are getting assistance.

The way we read it here, if we are specific like this then you ought to be specific in other things as well, you have to list down the areas. You are talking about gender equality, gender discrimination, the clause envisages listing down these specific areas, and so it is not in itself exhaustive, it envisages more listing of other areas. The issue of eliminating poverty is not addressed and poverty is a serious MDG issue; combating poverty. Sustainable development is a serious issue in the world. Going in line with the national development plan is a serious issue as well; you cannot do something outside of the international development plan. Discrimination against non voters is a serious issue as well. Vulnerable groups – widows, widowers, disable people and people who cannot come forward and apply for funds. So now it is incumbent upon the ministry or the constituency set ups to recognize the needs of these people and address them under the constituency funds.

In my view those are serious shortfalls of this bill that we might need to look into.

**Hon John Maneniaru:** I would like to further endorse your statement Mr Chairman about discrimination. It is common knowledge that discrimination is with constituencies and constituents that we, the MPs are just supporting those people who voted for us, and now it is getting more serious in terms of the time period to 2014 is very close and over time it sort of becomes normal and here the Bill is trying to address that. But when you are talking about discrimination the question I have is if it happens discrimination is there in terms of serving the voters, who is going to take action against that. Is it going to be the ministry or the constituents? Mind you that legal proceedings in Solomon Islands is very costly that a poor rural man cannot afford. How much more if this is legislated to put in a situation that it is them that must address the people's grievances? Even right now logging is all over Solomon Islands and trespassing into people's lands, but the poor landowner/resource owner can do nothing because those companies use money. And to engage a lawyer or even a good legal counselor costs a fortune in terms of a rural man.

In talking about discrimination, it can be put here in the bill but what I can observe is that in practice it will still go on because those who are going to be affected do not have the capacity and capability to address it. Are we just putting it for the sake of achieving other goals

or just to please someone else when in reality our own people are still going to suffer the consequences of discrimination? That is my comment, and it may sound like a question but I will leave it at that.

**Mr Chairman:** What is the view of the ministry on this?

**Ms Selina Boso:** I think if we just go back to the overall object of the bill, there is a broad statement there in terms of equity and fairness. It states that the object of the bill is to ensure that CDFs allocated to the 50 constituencies are managed and disbursed in a transparent and equitable manner. I think this covers the whole issue of ensuring that we minimize discrimination against groups. But as we look specifically at this it touches very much on women, not because I am a PS and I am a female in the ministry and so I put it there but this is an important issue that we see and it must be addressed. But overall, I think this discrimination issue touches on the equitable manner the funds must be disbursed in the constituencies.

Clause 5(2) really sensitizes women groups. I think clause 14(1) in situations where there is unbalanced disbursement, there is that avenue for the ministry to come in and does its investigation for the interest of those who have been affected in this way.

**Mr Chairman:** The point that we want to raise here is you look at the section as expressed, because you can investigate under section 14, but it will assume that if you do not assist non-voters, there is nothing wrong with that. Clause 5(2) also envisages you starting to list the different areas. It says “in allocating funds pursuant to subsection 1, the constituency office shall have regard to’ only two areas, ‘gender equality and ‘combating gender discrimination’, that is all. Therefore, if you do not assist non-voters, there is nothing wrong with that; if you are not concerned about sustainable development, there is nothing wrong with that; if you are not concerned about combating poverty; there is nothing wrong with that; if you are not concerned about vulnerable groups, there is nothing wrong with that because it needs to be specifically expressed here that it is these areas that funds must be allocated to; when you

allocate funds you need to have regard of areas like this, but there are only two areas listed here.

When you come to section 14, (the way I read it ) you will only look at these two areas. If we are not gender sensitive, then we will just remain there. If non-voters are not assisted, the tough luck, the act is not concerned about that. That is the concern we have there. I do not know but may be the AG's office may want to further explain on our understanding of the structure of the bill.

**Mr Ranjit Hewagama:** I think we have to agree that it could have been expanded but the instructions we had were to make specific reference to gender discrimination and those other factors were not mentioned to me. I just included gender discrimination as per instructions I received. I supposed it could have been expanded to cater for all those, but it was beyond me I did not receive any instructions to that effect.

**Mr Chairman:** We will raise those issues to the ministry and then we will see how we go from there.

**Hon. Derek Sikua:** I heard you mention non-voters Mr Chairman. I would assume that you are referring to non-voters or people that do not vote for a member within a constituency.

The other category is that members of parliament do receive a lot of requests from other constituencies or other organisations like church groups, cultural groups that are of a different constituency or even a different province altogether, but are raising funds for their church or one thing or the other. And we do receive a lot of those letters. Where do those come in? Even churches, like the Anglican Church or the Catholic Church or the SSEC Church groups come asking for money from members of parliament for a conference or one thing or the other. Just a question; to mention the other group of non-voters as well.

**Mr Chairman:** You may want to comment on that PS; if they are not from the constituencies then maybe we can direct them to their respective constituencies. I do not know, but PS, do you want to comment on the views expressed by the Leader of the Opposition?

**Mr Selina Boso:** That is a true statement you have made. It is evident we have been assisting people who are even from outside our constituencies too, our fellow Solomon Islanders. In my view, I think it is important that we take note of the things raised here, and like you have said, if the Committee can bring this up so that it is taken care of in the regulations that we make to specifically write out those different groups that you have mentioned.

**Mr Chairman:** Some of them are those living in Honiara, so maybe we direct them to the member for East Honiara or West Honiara or Central Honiara or may be Aoke/Langalanga too.

**Hon. John Maneniaru:** I think that point may sound light but it is quite important because of the title 'honourable'. Just about anyone can ask by putting in letters of requests for any fundraisings and so in trying to protect the title 'honourable', we have to assist them because if we do not assist them, they will turn around and say, 'what sort of honourable is this that cannot help us? What kind of honourable is this that does not have money? Just think about the Member of Parliament for Solomon Islands.

One colleague member in his statement on the floor of parliament once said that 'you are not only a member of your own constituency but you are a national leader and a member of the Solomon Islands national government'. That therefore means anyone who is a non-voter has the right to ask for funds. Maybe we have to create another new fund to take care of that. But it seems to be interesting as real experiences for us members of parliament.

**Mr Jerry Manele:** Not on the issue at hand but just a small clarification, Ranjit. Clause 5(1) on the terminology it says, 'the funds may be allocated'. Should it be 'may' or 'shall? It seems to imply that there could be other purposes of the fund if the word 'may' is used.

**Mr Ranjit Hewagama:** No, the word 'may' here means depending on the assessment. They could assess the purpose and allocate the funds for the purpose specified like income generating projects or community projects. I think the word 'may' there was to give a bit of leeway to the officer to decide on whom to allocate the funds to.

**Hon. Derek Sikua:** Sorry Chairman, I came in late and this question may have been asked already. But clause 5(1) stresses 'development purposes'. My question is, what about death, sickness, bride price, church festivals or paying of compensation and things like that, would you term those as developments? I mean death is not development.

The emphasis here is on development purposes to individuals, group income generating projects or community projects. But we get requests to assist during deaths to help in the buying of coffins, goods and so forth. We also help our people coming for medical assistance to clinics and hospitals. Certainly, we assist in the buying of bride price, as well as church festivals, and the biggest is compensation. How do you define development in this case? Otherwise we are going to run foul with this law.

**Ms. Selina Boso:** Yes, when we talk about 'for development purpose' we are talking about tangible developments. We want to see tangible developments taking place so that we measure their impacts and see developments happening down there.

The constituency development plan gives us an avenue to be able to see within our own context in our constituencies the areas we can focus the distribution of constituency development funds. So even though there is this whole intention for development purposes, I think the CDP allows for some rooms to address development in a way we see is suitable in our context. For instance, disaster management - there are some constituencies that are prone to cyclones and natural disasters.

*technical fault (interruption)*

*sitting resumed*



**Ms. Selina Boso:** Like I mentioned there is avenue for us to see at ways in which we look at it. Since constituencies are unique, the way we plan to address the development needs of our people is possible through that avenue. But we are slowly trying to move away from that. I think tangible development is what is important for us to look at now. There are also other avenues that are possible for the Government to look at. The kind of development assistance like deaths and sea fares, maybe should be accommodated under the PER so increase the parliamentary regulation entitlements of members of parliament to cater for those causes. Slowly we are trying to look at trying to address the socio economic development of our people and constituencies. I think that has been an issue we have discussed with the Prime Minister and the Minister so we hope that is an avenue to slowly address those kinds of development assistance. Thank you.

**Hon. Matthew Wale:** In reflection to that answer, I am a little bit worried that we are trying to fund everything like sea fares, compensation, and the custom of compensation is that the one causing problem has to pay it on his own. A man shows he has wealth and that is why he causes problems and so when people come to you asking for compensation, you pull out what they ask for and settle it. But now that government stepped, the Member for North East Guadalcanal paid for those compensations, this in a way is undermining our customs too. Therein lies part of this problem in regards to this.

This thing is eating at the core fabrics of our society; members of parliament are paying for bride price, compensation and dependants whereby people come because it is free money, People come to place on Government through A Member of Parliament. This is eating the core of the fiber of our society. The get up and go and get it done attitude can be somewhat undermined by these things. That is a matter we should think about carefully. If you are trying to provide for all payments that are currently being made today, I think you are on the wrong track. There must be some way to say, yes expenditures like these are right - they are development in nature and other expense like these must not be done, it is not right. Is that concern inside the Bill? You are pointing to it and so I think it is inside.

Clause 5(2) states 'allocating funds' and then it further states 'the constituency office'. I want some clarification whether it is the constituency office that is doing the allocation.

**Ms. Selina Boso:** I think there is a missing word there. I think it should be 'constituency development office' to be consistent with the whole bill. As we are aware, the establishment of the constituency office should give it that responsibility to manage and disburse constituency development funds. We are talking about a constituency development that is put under clause 4(1) to be responsible for the management and disbursement of the CDF.

**Hon. Matthew Wale:** The power to allocate is a very political power in the way the bill is set. What you are saying is that if that typo is corrected and it becomes 'constituency development office' the power to allocate belongs to that office. Where will a member of parliament be with regards to that allocation of decision?

**Ms. Selina Boso:** In terms of the endorsement of project application forms is where a member of parliament plays a role. The CDP too must be something that MPs closely consult with based on approval of the ministry. I think that is where we can link the allocation of funds.

**Mr Chairman:** Constituency office and the member of parliament; the form that you have attached at the back, is that what you are referring to?

**Mr Selina Boso:** Yes, Mr Chairman.

**Hon. Matthew Wale:** I am just following up on this one. Therefore there is delineation between the allocation, the power to allocate is on the office and then endorsement is from the member of parliament. That is what is in clause 9 - endorsement of the member of parliament. I think this needs to be clarified because the way it is worded here will cause some problems. The general scheme of the bill basically codifies and in some ways entrenches the current practice

but this part of it seems to somewhat stand out a bit. If that is the intention then it is okay but it would be good if it is clear.

**Mr. Ranjit Hewagama:** If you look at clauses 7 and 9, the member of parliament has a role to play in there.

**Mr Chairman:** The specific question is on allocating funds. The constituency development office is a very general sort of term here; who is involved in this constituency development office. There is the member of parliament, there is the constituency development officer and there is the project officer. Is that what we are talking about?

**Hon. Matthew Wale:** Under clause 4, the constituency development office does not include the member but only public officers. And then clause 5(2) says the office, which comprises public officers will be the ones to allocate the funds.

In practice if they play this by the letter of this bill, what will happen is they do the allocation and the member of parliament endorses. If the member does not want the allocation then tough luck because the public officers have the power to allocate. That is the way it is worded now. If that is the policy choice then we cannot say much. But just to be clear that that is where the ministry is heading with this.

**Mr Chairman:** Well, it would be a very interesting development. I think what the Member of Parliament is involved is the constituency development plan and the constituency budget. But this reference to clause 7 says “each constituency shall set up a constituency account for budgetary support” and does not even talk about formulating a constituency budget. But that is a possible area that a member of parliament can be involved in; he sets the constituency budget in line with the constituency development plan, giving it to the constituency office to look at. But here the Member of Parliament is removed altogether. If that is the purpose then we should not worry about this fund, we should all return these funds back to line ministries because this whole thing is about involving members of parliament who act as the people right

down in the constituency to ensure that development is distributed equally in their constituencies. The member of parliament is removed altogether from the day to day implementation of the fund, but his connection should still be through the budgetary processes and through the constituency development plan. That is where the member of parliament should really be involved in.

**Hon. Matthew Wale:** So currently it seems the bill has the member of parliament involved in the implementing aspect; like he signs the cheque, makes endorsement and things like that, but he does not allocate, whereas it should be the other way around. He should allocate and that allocation is his endorsement and the rest is implementation which should be done by the office. It is like putting one leg into a canoe, and that one canoe codifies the current practice and then the other leg is in another canoe, and that other canoe is moving arms length from the member. But the two canoes start to drift apart and you don't know where they will land. This example is not really a good one, but I see it as an inconsistency in the policy choices that were made as a back drop to this. But you could see it differently, I suppose.

**Mr Chairman:** Permanent Secretary, do you want to respond to that, but we will raise it as an issue that we see.

**Ms. Selina Boso:** Realistically if we look at it, the member of parliament plays a role in the endorsement of projects, to look at the way funds are disbursed. He also plays a role in the formulation of the CDP and when it comes to the budget, I think the budget process also involves members of parliament. When we talk about the development budget, it is approved in parliament.

At the constituency level is up to the member of parliament and the constituency development officer to consult at the constituency level. But in the whole budget process, I think members of parliament do play a role in the approval of the budget. The budgetary support here is mostly operational costs of the constituency office to operate, which is included here. I think the involvement of the Member of Parliament is still there.

**Mr Chairman:** Permanent Secretary, it is not really clear, it does not come out very clear. We are talking about almost \$3.5million that is not specifically allocated to any specific area. Okay, you talk about funds that come from agriculture must go to agriculture; there is nothing a member of parliament can do about that and all he does is making sure it is properly delivered to his people.

When it comes to the millennium development funds and the rural livelihood fund of \$2million from Taiwan and \$1.5million from the SIG and another \$100,000 in budgetary support which is about \$3.6million almost \$4million, it is not really specific. And that is where this whole allocation issue comes about. I think the point raised by the Member for Aoke/Langalanga is that Members of Parliament are not really involved in that. What is really expressed in this bill, the only place there will be the MP, honourable to sign; that's the only place a member of parliament's name is specific. But in the other areas it only gives powers to the CDO. If you look at clause 11, the CDO again has all sorts of powers there. And so it's not really clear to us, Permanent Secretary, and so it looks like we will raise this as an issue we have seen in this bill.

Does anyone else have any views on that area?

**Hon Milner Tozaka:** Can you confirm to me PS the present system, like this one here where you are allocating us these various allocations of the different funds and the other funds are from the ministries.

What you are saying here is that you will set up an office, the MP will be there and then the officers employed there as well. What you are saying here is that at the moment because I am going to be answerable to this fund as the Member of Parliament, I am there to see that these funds go to my people working together with my CDO for the funds to reach my people and so forth. And this is what you are trying to institutionalise here. Is that right PS? I mean that's how I see it. But the point raised is that the projects here have to be specified. I think that's the point. What sort of funds will the Ministry of Agriculture and others be also included?

You are right in saying that the MP are included, are involved. I feel that I am inside this organisation here. But you set it up, and just specifying it is what you did not include it in here, as the accounting officer. That's how I see it. But can you confirm to the Committee whether that is the way this is going to work?

**Ms Selina Boso:** I think that is exactly the way the ministry sees it and that is what is currently in place. In fact, the recommendation of constituency officers by MPs is already a role played by the MP working closely with the constituency office and the officers in the allocation of funds, in the formulation of CDPs and the way CDF is disbursed to our people in the rural areas. I think I can confirm what honourable Milner Tozaka has said. Thank you.

**Hon Milner Tozaka:** If you confirm that that is the way it is going to work, then maybe it is also not clear in our minds in regards to what the MP for Aoke/Langalanga has raised. But I am happy with that PS.

**Ms Selina Boso:** I think it is the allocation.

**Hon Matthew Wale:** But that is not what the bill is saying. Our concern is on what the bill is saying.

**Mr Chairman:** Aoke/Langalanga, do you want to raise something there?

**Hon Matthew Wale:** I am thinking this way; because we are lacking governance structure with this and that is why it is complicated. We are trying to allocate different functions and powers to two hands basically, a MP and the CDO. If we have a governance structure it would be much better of separation of duties and responsibilities to keep the check and balances.

However, a member of parliament if we go in the direction of arms-length of moving a MP a bit far away from the funds and make the MP to be involved in planning in identifying priorities and so forth, direction and should be involved in the year to year budget and maybe

in the allocations; when allocating between the different whatever heads they agreed on for each constituency, then from thereon is implementation. That should be the overall scheme of it so that MPs do not follow up duty exemptions, profoma invoice and so forth but it is the CDO and the constituency office that do those things.

If Caucus does not feel very comfortable with this and wants closer involvement of MPs, then endorsement should also be with MP so that the MP still has control over allocation and endorsement. When it goes to endorsement it is not only endorsement of big projects. Clause 5(1) talks about individuals and I am sure that is a sticky point to Caucus so they want to allocate and that's why this question of people not voting for a member of parliament, non voters should be assisted or not usually comes up. That is why this delineation between allocating and endorsement is problematic because it looks like it's actually not by design, it is not a deliberate choice but how it is constructed appears like this, but it is going to present a problem.

It doesn't matter if the CDO is identified by the member and is appointed by the Public Service, but CDO is only a human being. If the CDO wants to campaign against the MP or wants to do other things or is interested in other things, this Bill is strengthening his hands more than the MP. It is how to balance all these powers out that looks problematic in its current construction.

I mean it's up to the ministry and the government, but there is need to reword this bill, Permanent Secretary, to really strengthen it. If you don't want to go down further to governance machinery, just as it is really needs to be strengthened to hold those different parts and objects in balance. Anyway I am sure this will come with the report.

**Mr Chairman:** In the recommendations; we will raise those issues to the ministry.

#### **Clause 6 - Constituency Development Plan**

**Mr Chairman:** Ideally this plan should really not be a standalone plan. The PS/Ministry of Planning may be needs to comment on this. It should be part of the overall development of the

country. Maybe in your discussions in the ministry how do you construct the development plan based on constituency profile?

There are a number of constituencies that already have their development plan and constituency profiles, how do you see us fitting these constituency plan in the national development strategy and the national development plan?

**Mr Jerry Manele:** As I have alluded to in my general comments earlier, and I did discuss this with colleague PS for Rural Development on a number of occasions, we will try our best to see how best we can do this. But it would be good if the constituency development plans are linked or acknowledges the national development strategy.

The sectors that are covered in the national development strategy, I guess are pretty applicable everywhere so that can be done and, of course, if there could be some links as well to the respective provincial government plans, because again the sectors are pretty much the same; health, education, productive sectors.

In terms of the nature of the sectors or issues could be different given the size of constituencies. Of course, we do understand that, and as the colleague PS of Rural Development has stated there could be constituencies that are much more prone to natural disasters, for example, than others. But generally, the sectors and the objectives that are covered in the NDS are quite general and applicable to almost every constituency. That link is possible as well as some sort of acknowledgement to respective provincial government plans that are in existence.

**Mr Chairman:** So what we are really looking at here is that the plans will translate the national development strategy or whatever to fit into constituencies specific situations. Maybe you talk about productive sectors generally in the national development strategy but we are probably talking about a farm there or a fisheries centre there and so forth. So the national development strategy will be the guiding document to assist constituencies to come up with their development plans. But, of course, the constituency profiles are something totally different. And are you going to help us to do that too; to compile constituency profiles, and it is



from there that we are going to work out our constituency development plans? But you have the national development strategy as well that already covers those areas as well. So where are we, which one are we looking at? Is it the profile that we are collecting or work from the national development strategy?

**Mr Jerry Manele:** The profiles of each constituency will determine the constituency development plan of a particular constituency; what would be their requirements in health or education. The NDS is just general, it's just overall. The specifics of the CDP are going to be based on the constituency development profiles for a particular constituency. The nature of what constituencies are going to do in terms of education, health or agriculture is going to be slightly different in terms of projects, programs given the profile of a particular constituency.

**Mr Chairman:** So by 2014, constituencies that do not have any plans are not going to receive any funding. Is that what you are saying? I think that is the way it is structured here. But thank you for clarifying that.

**Hon Matthew Wale:** That is a serious question by the Chairman which we laugh about it but because subsection (2) says 'prior to allocation of funds' and funds as grants needs the approval of the ministry of constituency development plans, and presumably there will be a transition. Where is that covered? Is it also in the regulation or where? There is no transition provision in the bill? Otherwise you are going to starve constituencies of resources as well.

My question is on clause 6(1) which says 'each constituency shall prepare a constituency development plan'. Who is this constituency? I mean constituency is presumably defined in the constitution as some geographical boundaries, so I do not know who this bill is referring to. Is it the project officer or the constituency development office or is it the Member of Parliament? But this needs to be made clear as to who we are talking about here. Some clarifications on that would be good.

**Mr Chairman:** I think that is an important point. As it is there, who is this referring to is the question?

**Ms Selina Boso:** I think here we are talking about the constituency development office and its officers. It is the responsibility of the constituency office with its officers to prepare constituency profiles and constituency development plans in collaboration with the Member of Parliament.

**Mr Chairman:** As implied there, is that what we are saying? Is it proper?

**Mr Ranjit Hewagama:** The word basically there should be 'each constituency office'. It should be the constituency development office.

**Mr Matthew Wale:** So then that problem arises. I suppose you are saying it is implicit in that therefore the role of a member of parliament. This thing is a little bit convoluted because there is lack of governance structure to work with this and that is why we are looking for places to park these different responsibilities. But you know an arms-length; we are trying to go to arms-length for argument sake. An arms-length constituency office will tell a member of parliament to 'bugger off, you have no role in this' and they would be absolutely right to say that. As is currently constructed that is what it is. But we actually want it the other way around. That is the end of the bamboo you want a member of parliament to be involved in, not the other rein where he is dishing out money. It just looks convoluted to me; it is not logically flowing. I think that needs to be supplemented perhaps to spell out the process of coming up with the plan or those who are involved, what is the role of a member of parliament and issues like that so that it is clearer and it empowers each player in that process.

**Mr Chairman:** We take note of that. We will also raise this in the report that is coming up. Hopefully, we should communicate with each other before this bill goes to parliament.

**Hon John Maneniaru:** I think there are two points made by the MP for Aoke/Langalanga about the constituency development officer. As it is now, the bill has those powers. Human as we are, the constituency officer and the Member of Parliament are the two key players here.

PS, you may have come across cases where those two people sometimes do not work together for whatever reasons, and if this happens what would be the likely situation. Who is going to take over if those two people cannot work together, and they almost have equal powers where one or the other can say 'get out'? If such a situation arises, the CDOs are more powerful than the MP, where does discipline come in or who is going to be replaced or politically the MP recommends to the minister to sack or remove the CDO which normally happens? That is practical situation that is normally applicable to us in Solomon Islands.

**Mr Chairman:** Thank you. That is a practical situation that is likely to happen, and it has already happened in some constituencies where members of parliament and the constituency development officers do not work together, to the extent that even the CDO wants to contest against the member of parliament. It is not that we are afraid of them but that situation can happen. That is a point that we will raise in the report for the ministry to look into and if there are ways of improving the framework to address this, then it should be taken into consideration.

**Hon. Milner Tozaka:** Just following up on clause 6(1) on planning, PS/Planning said that the plan of the constituency should be based on the national development plan. Clause 6(1) breaks away from what he said. We are talking here about balanced economic development for the country. In order to have balanced development, it must be based on one particular plan headed by the Ministry of Development Planning. That ministry is the one to set the music or the tune and the constituency and the province should play according to the tune of set up by the ministry.

In order to achieve that, the plans of the constituency should be within your plan after having consultations with the provinces. This means the plans of the provinces should be in your plan and you put them in the development plan so that all of us play by what is set up in

the ministry in terms of funding and things like that in the budget. How would this work with the two of you PSs? How would this work? This is coming out of that policy that we are doing this is in a piecemeal basis, it does not worth probably so you say you will do it that way. How are you going to control it if it works this way in practice?

**Mr Jerry Manele:** That is a very important question. Yes, the NDS, just to refresh what I have said, I am not saying that the CDP should be based on the NDS because the NDS only provides for the general framework. The CDP will be based on the constituency profile and context, but the NDS should provide some guides as to how this should be linked to the NDS or the provincial plans. I think there is a role for planning, which I have discussed with the PS for Rural Development and if that is not reflected in clause 6(2), it could be in the regulations, but I think there is a role for planning to look at CDPs when they come in with Rural Development, we will work closely with them to review or appraise the constituency development plans before they are finalised so that things are sort of aligned to whatever we have in place. I do take your point that planning will have to play a role working closely with the MRD in terms of probably section 2 of clause 6.

**Dr. Philip Tagini (SSPM):** Chair and eminent members of the Bills and Legislation Committee, first of all let me just apologise formally on behalf of myself. I did get the notice to appear before the Committee this morning but I only arrived back from Nadi on another government meeting this morning. But I thought it is very important that I come and appear before the Committee because this is quite an important bill that has implications which are quite far ranging. Also in terms of the political developments that will take place as a result of the bill, I think they are quite significant in terms of nation building and management. So I would like to take this opportunity to be present. Unfortunately I did not have the opportunity to be privy to previous discussions, but in terms of policy, which is my primary responsibility in the Prime Minister's Office, the basic policy underlying this bill is simply to improve the way national resources are used, and that is to see these get to the people that really need the resources to be used at the local level as well as to look at the mechanisms that will allow that to take place.

I think there is a lot of agreement in terms of whether that mechanism as contained in this bill is up to the standard and scrutiny it should get, but I think that is what we are here for. We are open to listen and open to see the best way forward is in terms of accomplishing that policy goal.

In light of that, I have had some opportunity to comment on this bill, but I think the pace at which it moves is quite fast. I am not here as a technical person, I am here as a policy advisor, but because of my legal background I can also see some drafting that might need to be improved. Take, for example, clause 6, I think is not clear, two things are not clear there. How often is this constituency development need to be done? Is it after every four years when there is a new member of parliament or is it every year to regulate the use of that resource every year? I think that is not clear from clause 6.

I think the MP for Aoke/Langalanga has made a very valid point on the administration of the scheme. In clause 6, it is not clear what rules are there for the continuity of an establishment that is set up. Do they come in every four years or do they come in every year? I think those are issues that are quite still unclear. I agree there is not only typographical and drafting improvements that might need to happen but also substantive ideological issues, which need to be logically advanced through the bill, where they sit, how they operate with other mechanisms and not only to the institution but the people.

Capacity is made up of both the institution and the people there. How do these people sit in and how do they operate and where do they get their mandate from and the hierarchy of their power structures. I think those needs to be improved a little bit but nonetheless, I think we are open to hear out those things and see if we can improve in terms of the way the structure sits in the bill. But for the time being let me just say thank you and I look forward to further contributions.

**Mr Chairman:** In fact, those are issues we have been grappling with since this morning. Since the bill has come through the parliamentary processes now, we will raise those issues and we hope that if the government is genuine with its intention of really achieving the purposes of this bill as carried in the various clauses, then it must be opened to continue dialogue with this

committee before this bill is even submitted to Parliament. If that will be an understanding between us, then it will be really good.

We acknowledge the fact that this is the area that members of parliament are usually criticised very much because of funds and funds continue to increase every year. And all we get is a bill that comes in talking about constituency development funds and not about the governance structures and administrative processes right in the constituencies to manage the good things in this bill. In fact, when we opened this hearing, we have been grappling with all these questions and we thank you for acknowledging that and we will continue to process this bill through Parliament since it is now submitted through the parliament processes.

We are now on clause by clause discussions and we take note and we will raise our concerns to the government and I can say that if there is a good understanding between us because of the importance of this bill that these dialogues must be continued with talking to the Ministry.

This is the first time the bill comes to the Bills and Legislation Committee. Normally when it comes here, the next thing is that it has to go to Parliament. But if do have the understanding that we still need to talk about it then it would be very good, like if there needs to be some amendment that need to be done outside then maybe we can come up with a new draft, I do not know, but something like that.

I hope the Permanent Secretary understands us on this. Thank you very much for expressing your views on this.

**Hon. Matthew Wale:** I wish to thank the Special Secretary to the Prime Minister for his statement that this Bill is concerned with the distribution of resources to the people, although it doesn't say that but it should say that here under clause 3. That is a very, very important policy objective but is totally omitted in the objects of the bill. If that is included, the collider scope – the scheme in this bill I think should be different. It will focus on people, but right now the bill is not focused on the people but rather is focused on the member of parliament. It entrench the powers of member of parliament.

I want to take you up on that and maybe in the redrafting of it, I am assuming now that with your facilitation that there might be redrafting to take into account those broader ideas so that the bill is a bit more balanced.

We raised before your coming SSPM the matter of consultations. A number of people (individuals and some groups) have made some written submissions at very short notice. The Permanent Secretary of Planning only gets a copy of this bill this morning, and the Legal Draftsman. This kind of short notice is not really good for good quality input to a bill that we claim is an important bill. If it is important then we should not rush it but do it properly.

The way it is drafted, Special Secretary, I described it to the Permanent Secretary of Rural Development as one leg in one canoe and the other leg in another canoe, and those two canoes seem to be drifting apart not knowing where the middle will land, in the sense that what reform is critical to achieving that policy goal you have stated to safeguard the integrity and direction of distribution of resources to the people. And then the other leg is concerned about the numbers game; and it is written all over this bill. It is concerned about the numbers game because this is so intimate to members of parliament that a government can be brought down because of it.

This is the political reality, I suppose, of trying to navigate such a bill like this through the floor of parliament. I think the Committee has noted the sentiments you have expressed and will take them to heart that you will take seriously recommendation coming from the Committee and that you are opened to some of these things and obviously ultimately it must go to Caucus and it has to agree upon it before comes back here to parliament. But if it rejects it then we can't help it. But at least put to Caucus some of these things that might strengthen it a bit in its current form. Those are the comments I want to make in response to the Special Secretary.

But the question by the Chairman is not yet answered regarding clause 6(2) which says 'the ministry's approval prior to allocation of funds'. There are no transitional provisions. I have had a look unless transition will come in the regulations but if it comes in the regulation then it will be ultra vires 6(2) because clause 6(2) is categorical prior to approval in the constitutional development plan. The allocation comes only after the plan is approved by the

ministry. But the ministry is yet to complete constituency profiles for 20 odd constituencies and so this process cannot start. If the constituency office for North Vella is yet to be set up, then where is the office to facilitate the planning? So all of these 'ifs' and 'buts' will kick in, and so offices are not yet set up properly, officers are yet to be appointed, the ministry is yet to do profiling so therefore all those things conspire to delay the plans of the constituency. But you are saying prior to the grants coming, the plan must be approved in the ministry. And so it looks like the whole of next year some constituencies will not get anything. Unless there is a transition provision but it is not here. If you can answer that?

Maybe if the draftsman can clarify this? If this bill passes in its current form and the circumstances that I have just described exists, which it will, then what will happen?

**Mr. Ranjit Hewagama:** What the Honourable member for Aoke/Langalanga said is possible. But I don't know, I cannot answer this question because I had no instruction on this in detail. I only acted on instructions that I received. Those are policy matters which should have been decided by the ministry so I am not in the position to answer that question.

**Mr Chairman:** In an earlier question when we asked the Ministry, the PS said that this bill will come into force on the 1<sup>st</sup> January next year. The way we are discussing now there are still a lot of things that need to happen, and the purpose of bringing this bill now to go to Parliament when we have yet to address a lot of issues that we are talking about now. Even if we pass this bill it will not come into force until the 1<sup>st</sup> January next year. So would it be just sensible for us to leave it first and allow us to address all the issues we have been raising and discussing now before we bring it to Parliament. But that is going to be one of the points the Committee will raise. Because the way we are talking now, this bill even if we pass it now will not make any difference to anything, it is not enforced because it will be 1<sup>st</sup> January before it comes into force. And even if it is enforced by 1<sup>st</sup> January there is still the need to establish a constituency office, constituency plans, which are prerequisite to the release of funds to constituencies. There is therefore a lot of administrative areas that still need to be addressed before this bill can be implemented. We will raise some of these issues.



**Hon. Matthew Wale:** Except Chairman, if it is passed and then it comes into effect on the 1<sup>st</sup> January next year, even if a constituency office is not set up, profile is not done so therefore there is no plan, but if clause 6(2) remains as it is without a transition provision, the Accountant General will have no option but to put his foot down and say 'sorry, but the law says so'. And if we go and cry to him he will respond by saying 'you are the ones who pass it'. We are putting the Accountant General in a very difficult situation which does not reflect the reality of it. That will be part of the issue for us to look at.

The point made by the Chairman, I have not thought about it but it is an important one. What is this rush because it will be not until next year before it kicks in? We are still on March. We should take a few more months to really consult properly. This process is helpful in really strengthening it before we can bring it back in June or around that time.

**Mr Chairman:** With that at the back of our minds, can we continue on with the sections. Because the thing is that it is now being put to the processes of Parliament and we are obliged to report on it, and so we will go ahead with it. But we will make suggestions to the Government in the light of what has been discussed.

**Hon. Derek Sikua:** With your permission I want to raise an important point on clause 6. I think clause 6 with the constituency profile leading to a constituency development plan submitted to the ministry for approval before allocation of funds as grants are made to constituencies. I think it is proper that I raise this point about the need for a formula; the need for a formula because as it is at the moment, all the constituencies are receiving the same amount of allocation. All of us, for example, this year would be receiving say about \$5.7million plus. That is very unfair when there are constituencies that do not have cocoa, coconut plantations or teak plantations but they still get this assistance.

Honiara constituencies, not anyone in these constituencies are planting cocoa plantations, or are there some? Not to mention coconut plantations or cattle farming or something like that; we only live in Honiara. That is just an example Mr Chairman, and there are some constituencies that do not involve in cocoa, coconut and teak planting. Some

constituencies do not fish as well, I presume, and some constituencies are smaller than other constituencies.

On constituency development funds in Clause 6, I hope that with the plans in place, the ministry will then be in a position to see clearly what the strength of a constituency is; what are in their plans. And so if they do not have cocoa and coconuts plants, then the ministry should not give them coconut and cocoa allocations per se but give them to constituencies that plant a lot of cocoa and coconut.

I do not know what Aoke/Langalanga is doing but it will probably be doing cattle and that kind of thing. So that what you do is have a baseline figure for everybody and I hope you will come up with a range of indices for you to allocate more funds to constituencies, say based on population. Some may be based on geographical spread or maybe some degree of hardships getting there to the constituency; an index like that. This is so that constituencies do not get the same amount of grants but more for bigger constituencies. Just imagine Central Kwara'ae, for example, with a population of 30,000 constituents, receiving the same amount as Rennell/Bellona that has only about 1,500. Where is the fairness in this, Mr Chairman?

I should be having more than Aoke/Langalanga, for example, because there are just too many of you in Honiara and so I am simply saying that. But in any case that is the point I am making. I guess the point is clear that before funds are allocated there must be a formula in place so that constituencies with more people get more and those with less get a bit less. But there is baseline, for example. This will not be politically sort of palatable but that's the reality of what we are talking about and we must do the right thing.

For so long we have been so unfair to big constituencies like Central Kwara'ae and I think we must put a stop to that.

**Hon Manasseh Sogavare:** Thank you very much Leader of Opposition, that is a valid point to take note of when we look at the overall package that will be going to constituencies.

**Hon John Maneniaru:** Just to add on a point that is of importance in my view, and I am referring to a point raised on Clause 6(1) by the Chairman of the Foreign Relations Committee

about the three plans; the constituency development plan, the national plan and the provincial government plan. I guess the two latter plans must be in place before a constituency plan comes in.

From experience an issue that would arise is when constituencies are in the process of making development plans, even if the provincial government does not have any plan for an airstrip to be in West Are Are but when I came in and requested it as a member of parliament and I am on the government side, the development will go ahead regardless of it not being in the constituency's plan. We therefore have to tighten these things so that the plans and development are coordinated, otherwise the plans are just on papers.

I can see the point raised earlier as very important that the other two plans must be in place so that the constituency plan is derived from those two plans, so that when constituency plans are in place, they are in line rather than being politicized because we are politicians and approvals can just go ahead not in line with the plans of the province as well as the national plan for infrastructures to be in the constituency.

**Hon Manasseh Sogavare:** Thank you Leader of Independent for raising that issue. Yes, indeed sometimes the provinces have different plans and the constituencies want an airport. They are practical issues that we might need to consider when we draw up our plans.

And it obviously emphasises the importance of planning so that when funds are given for development or when approving development for building of infrastructures, it is in line with plans that do not clash with each other and there is inefficient use of resources and so forth; an airport here and another one close by, which doesn't make sense. Those are valid points.

#### Clause 7

**Mr Chairman:** I am concerned that signatories to the constituency account shall be the Member of Parliament for the respective constituency and the Constituency Development

Officer. That sounds good, but the whole idea of having two signatures to the account is to counter collusion between two people who know each other very well.

Right now the Constituency Development Officer is approved by members of parliament. We decide on whom we wanted to be our CDOs. I do not know what we are trying to address here but if it is collusion between the Member of Parliament and the CDO is one of the issues then there is still scope for such to still happen if you have a person who is closely connected with a member of parliament.

I think a point was raised earlier on by the Auditor General where if you have a committee kind of set up with the chairman of the committee to be a representative of the people as one who would be a signatory to the account. But I am not really comfortable with the CDO and myself as the MP being signatories. I do not know what other members are thinking about that.

In some constituencies, only the Member of Parliament himself is the signatory! So here we are looking at making sure the constituency account has two signatories to it. Just the choice of the CDO, is it because he is a government officer or government officer/approved by a Member of Parliament. By the way what if the Member of Parliament does not want the CDO under these new arrangements, how are you going to deal with it? His removal would be based on politics, political consideration or the General Orders and rules of the public service? Right now you will note that there are new CDOs every year for some constituencies, some were being sacked and so forth, they are not really protected and some MPs acted CDOs by themselves. So we take it that under this arrangement the CDOs would be protected; a Member of Parliament would not be able to remove the CDO even if he dislikes him unless he does something wrong as per the rules of the public service. Right now, by political considerations a member can recommend the removal of a CDO and then he would be the signatory to the constituency account. Are there any thoughts on this?

**Hon James Tora:** Mr Chairman, from my point of view since the Constituency Development Offices come directly under the Ministry of Rural development, I see it very important that the Permanent Secretary who is the accounting officer of the ministry puts lay down his/her

signature on the constituency funds rather than the CDO. That is my thought on this. Instead of the CDO and the Member of Parliament, why not put the Permanent Secretary or her nominee to be the signatory to the accounts with the Member of Parliament? By that I can see no problem happening.

I would like to come back to the point you raised Mr Chairman that a few MPs have already sacked some of their CDOs because they cannot work together. I think the reason behind the sacking is because the CDOs have worked against the MPs. In my case I find it quite easy because the two of us work together. But to avoid that to happen I think the Permanent Secretary being the accounting officer of the ministry is the right person to be the signatory.

**Hon Manasseh Sogavare:** Thank you. That is a view expressed and probably the practically of that is one thing because the Permanent Secretary has to sign up to 50 cheque books and every day signing cheques. But that is a suggestion. I think the fear here for raising this question is the probability of collusion happening between the MP and the CDO if they know each other very well and so they can sign a cheque for certain things not in the constituency plan. There are not really cheques in here. But if it goes through some other systems established in the constituency, then it has to come through, somebody has to approve it first, maybe the chairman of the committee gives the approval in line with the plan before funds can be released. And so it is the choice of the constituency development office.

But do you want to comment PS on what was expressed already by the chair and the member? I guess there is so much to shallow so maybe she should respond first.

**Hon Douglas Ete:** Before the PS responds, I just want to add another comment. I think if rural development is all about dishing money, then I as a Member of Parliament should not have become a member of parliament. That is the truth about what rural development is all about. It is not my job as the MP to be dishing out funds. On top of that, a few Members of Parliament have already been to prison.

I think the only independent person here would probably be a nominee of the Ministry of Rural Development to countersign the cheques probably with the member of parliament or a nominee of the Member of Parliament or the financial controller which will be appointed under regulations that would be made sometimes sooner with a personnel from the Ministry of Rural Development.

This is because I as a Member of Parliament sitting with a thousand cheques to sign doesn't look proper. I am just throwing ideas around here because our ideas may not be the same.

Plans, yes, if you do not have a plan, you are lost before you have started, which means as a Member of Parliament I just simply have to agree to the plan; this is where the funds should go, it must be done this way, these are the projects that must be implemented – I would have to agree to those.

I have to see to it that moneys that are to be allocated to projects must be expended exactly as how I want it. It is not necessarily me signing the cheques. I am simply suggesting an idea here for us to consider. If the Ministry of Rural Development comes running to the Member of Parliament, it would be exactly like the situation now where I myself too am running away from my constituents. That's my experience. This is because I am signing a few cheques today and tomorrow a few more and the next day a few more cheques and so forth. People are looking for me to sign cheques that I feel I am only for signing of cheques. If that is going to be the situation then I do not want it.

Those are the kinds of ideas and thinking that come across my mind when we are looking at issues of national development and the policies behind this bill. Thank you Mr Chairman, that is the point I want to stress to the team this afternoon.

**Hon Manasseh Sogavare:** Permanent Secretary, maybe you would want to make a response to the policy rationale behind Clause 7(2)?

**Miss Selina Boso:** I wish to thank members for the issues being raised here. I think on the part of the ministry, our view is that we would want to see continuous close working relationship

between a member of parliament and his CDO. I think that is the basis of this clause. But yes, we do acknowledge that in some instances some Members of Parliament and their CDOs did not get along and therefore affecting the CDOs.

Our thinking was that such circumstances should not have happened because the CDOs were actually recommended by the members of parliament and so there should be that close working relationship. But like I have said, we acknowledge that such have occurred. The CDO, as mentioned by the MP for Ulawa/Ugi, is an officer of the ministry and is a public officer. Eventually we must slowly move away and ensure these officers perform their functions as expected of them to carry out and shun away the effects of politics, I would say or politicians not happy with them.

I think this is where the basis of this comes in. We want to see these two people working together. I really do not have any doubt that the two should not be working together when they are recommended by the Member of Parliament hence they must work along with the MPs.

But yes, we acknowledge what has happened in the past and I think in rethinking about this, the thinking of having the ministry to countersign is one of the best avenues, and so it could be three instead of just two as it is in here. I can go along with that suggestion if the Committee recommends it to look into it as well under this clause. This is just to safeguard unwanted situations in case the MP and the CDO do not work together at any time.

**Mr Chairman:** I think the policy rationale behind having more signatures on the check is to protect the funds. If there is only one signature then it is not right, and also if both of them know each other very well they can falsify the funds or even if three people know each other very well they can even falsify the funds too. Therefore, unless you have a bit more meat into what is currently in here just to protect the use of funds.

**Mr Clezy Rore:** All those concerns are important. The need to have a working relationship which allows for funds to be used to advance projects in the communities and at the same time there is need for a mechanism that allows for unlikely circumstances where people might not

be in the best of relationships, people might not be honest which are all important considerations. I think we will have another thought into that, I have some ideas which I need to talk about with my PS that maybe three is a best alternative. These two, and these are probably on one side and maybe we can have somebody that is independent by virtue of their professional engagement, maybe say a senior officer within the Ministry of Finance at the undersecretary level or something like that. In that way even if these two people are on one side, you can still have the independence of the third person. But all those points are taken and I think we will have a think about them. I think what you do not want is two people on one side and you also do not want two people who cannot cooperate, and so there is need for an element in between who purely will do the work by virtue of their normal day to day operations who does not regard any side of politics.

**Mr Chairman:** I think whatever we do, the practicality of it as well is to look for a government officer here that is not always available and so all these issues need to be taken into consideration; there is need for more discussions into these.

**Hon Milner Tozaka:** I do not have problem with this. What you are talking about in terms of integrity and things like that is what we are going towards that in order for those two to work together. What I am not very happy about is that I have to sign all these things. I mean I am expecting the ministry to do that so that eventually the member of parliament should not sign anything. You should also help us to look into increasing our salaries. I think it is our salaries that should be increased so that it is our salaries that should be very high so that our salaries can look after us and those funds look after themselves. That is what I think. Why should I be busy like my colleague here has mentioned? I am going to be very busy here because every day I must sign checks. Eventually what is going to be our plan so that members of parliament should not be involved in these funds? I should be busy thinking about bills and things like policy matters for my constituency, but not these funds. That is my view on this. And that this should be accommodated inside our salaries and allowances. They should be increased maybe to a level that it looks after us. That is my view. I've been thinking about how eventually a



member of parliament should go out of this so that we concentrate 100 percent on our roles as members of parliament as stipulated in the constitution and not on these things that we are wrecking our minds on as to how we can work together in looking after our constituencies and our people.

**Mr Chairman:** I think it goes back to this issue of governance structure. In the absence of that is what we are talking about here that the ministry would still be involved. Ideally you have a set up there, the ministry checks it up, an independent audit and so forth. If the ministry still involves then that would be another matter as well. I think those issues would be raised in the report so that we relook at the whole structure.

**Hon John Maneniaru:** This is another thought. I agree with your point on how many people should sign the check. Even if it caters for 10 people but they can still talk to each other. What really matters is one or two or even it if it is one but he is trustworthy as required by the bill is enough. That is basically what we should be driving at, doesn't matter how many people and from which corner. I think the ministry should stay out because who is supposed to be like a policeman on these things. I think it is the responsibility of the ministry.

I want to go back to the point raised by the PS earlier on today about constituency participation. These funds belong to them. We are trying to provide for their needs in here so let us preempt that we cannot trust them. I think we should cater for them. If they have to have committees then provide for it so that at the end of the day since they are empowered they are trusted and they can look after themselves rather than someone looking after them all the time. Let us trust the constituents, and that is why constituency comes about. If a member can stay out, the better. But these people should be able to stand and look after themselves and we members cater and facilitate for them. That is my thinking and what I would like to see here.

**Mr Chairman:** These are views expressed and eventually they will find their way into the report that is coming up so that we can look more into how we can do it better.

### **Clauses 8, 9, 10 & 11**

**Mr Chairman:** Clause 8 says 'allocations from the Constituency Development Fund shall be by way of grants'. Some constituency are actually going ahead to do it on a 50/50 basis where people get the funds and put it back as a revolving fund. Is that kind of system not proper now if it so happens in some constituencies?

**Ms Selina Boso:** We are looking at funding development projects here. You have that pool of fund targeting development projects down there. If you look at clause 11(c), it allows for such an arrangement to happen down there; enter into agreements with potential recipients as to how we can implement projects like that. If there are contributions that need to come from communities or persons then that is allowed for in here too. Otherwise when funds are given out we can also make agreement for them to sign for it so that if anything happens we can make them accountable for it.

**Mr Chairman:** But make sure they use the money wisely, use it for the purpose for which the funds are given.

**Hon. Matthew Wale:** I want to follow through on the 'by way of grants'. It is not very clear to me. By way of grants; in the ministry it is the PS that is the accounting officer. In the constituency, who is to account for the funds?

**Ms Selina Boso:** It should be the constituency development officer, in this case.

**Hon. Matthew Wale:** Again, these issues come up because of the lack of governance in the proposal as it stands. Accountability relationship in this is not deep enough, it is shallow. If there is a constituency governance structure set up by legislation putting the right people they should be accountable to, and that is for those in the constituency to see whether it works or

not, whether it is there or not rather than a superficial monitoring, evaluation visit to go and see whether it works or not and then the role of the Member of Parliament again in that accountability relationship. But again it is made convoluted because of the lack of a governance structure. I supposed I am just homing on that point again because it needs to go back and come back with an appropriate governance framework.

**Mr Chairman:** That is a good point and we will raise that. Almost all the clauses have now been discussed. Do you want to respond to that PS? I think you have done that.

### **Clauses 9, 10 & 11**

**Hon. Milner Tozaka:** Are you sure PS that the constituency development officer is the accounting officer, because both of them sign and it is not clear here as well? I think that needs to be cleared. It cannot be the constituency development officer.

**Mr Chairman:** That point is not clearly stated, unless we have, again we go back to this governance structure because right now, effectively the accounting officer of the funds is the Permanent Secretary of the Ministry of Rural Development, and the accounting officer for the other funds that are listed here, like the agriculture funds, is the permanent secretary of that particular ministry. Right now they are the accounting officers and the constituencies are just implementing what is allocated by the accounting officer. When he says this is for rural livelihood and this is for that and so we are just implementing the thinking of the accounting officer. I think the idea that is coming out here is that constituencies need to take more responsibility.

When \$3.5million of the fund goes down there, it may be allocated as rural livelihood but it will be broken down further for different areas and this is determined by constituency officers. Some have committees, in which the committee actually decides on what areas the money should go to. That shifts the responsibility of being accountable for the breakdowns in the constituency offices and set ups.

Right now you could be held accountable because if the funds are not properly accounted for in the constituencies, you are the accounting officer. The idea of establishing a constituency governance structure system to implement this is something that we will come back to all the time. Until we address that, everything will have to come back to the ministries, to you and to the line ministries that are allocating other resources for constituency development.

Clause 9 is about application form and we take it that this is what is at the back here. And they come in different colours as we understand.

**Ms Selina Boso:** I think a little bit of change there is the name, which is now the CDF project application form. I think that is the only change to the current form. Yes, they come in different colours according to the different funds that are currently administered through the ministry. But otherwise, this is the standard format which has been used since the ministry was established and administered the funds. And there is that endorsement of Member of Parliament, which is stated in clause 9 of the bill. It was there in the application form from the beginning.

**Mr Chairman:** The current practice right now is that everything is centralised, because all the application forms go to the ministry. Ideally, the application forms should come to constituency set-ups. We will continue to discuss that.

I think we can understand that if funds are for development projects, it will go to the suppliers and the normal tender bids and collecting of three quotes. Is that what we are talking about in clause 10?

**Ms Selina Boso:** Yes, clause 10 really looks into the issue of procurement process that we have in terms of procuring materials. Currently, what we are do is get waver approval from the Ministry of Finance because, as you know, to administer project procurement for 50 constituencies is a tedious job looking at the capacity of the ministry. We have been utilising the system that got the approval of the Ministry of Finance to waver the Financial Instructions

of obtaining three quotes and go through the tender process. But here I think it brings back that in place, that constituencies and constituency development offices have work to do, they have to follow the normal FI instructions under the Public Finance and Audit Act. So, it is a lot of work to do on the part of the officers and these are things the ministry will look into to build the capacity to better understand the Financial Instructions and the requirements required of them. I think that is what this clause is really about.

**Mr Chairman:** I think we are clear here unless we do not agree with it, then it is a different matter altogether. But I think going back to the requirements of the Financial Instructions and the Public Finance and Audit Act is what we have been grappling with and so we don't have any problem with that.

Clause 11, the powers and duties and functions of officers, and officers here is only the CDO, are there any others?

**Ms. Selina Boso:** I think this is the one that points back to who is accountable down there, and I have stated the constituency development officer. This clause 11 gives some powers and duties too to the CDO as the accountable person down there in his or her role in managing and disbursing constituency development funds. I think that is what this clause is all about.

**Mr Chairman:** I think the Committee probably sees that and needs regulations, like for example, there is need to set the minimum accounting records that will be kept in constituency offices or the process of approval of funds in the constituency set ups. Subsection (d) is talking about 'maintain proper registers, accounts and other documentation as required by the ministry'. We take it that you will come up with accounting procedures, the types of records to keep and things like that, and those would need regulations.

Probably the view is that either that should be with one person in the constituency, the CDO or a committee. One person versus a collection of people making decisions is an issue. If there is a proper established constituency set ups and CDOs are effectively seconded to the

constituencies - seconded officers, but without this constituency set up they are government officers working in the constituency. Any comment on clause 11?

**Hon. Matthew Wale:** In its current construct this bill is trying to codify the current practices. In clause 11, again the place for direction from the MP is not there. He just takes directions from the ministry in clause 11(a), given that we have already identified there are some - when we talk about the power to allocate and then separated by the endorsement, one could see a remedy to that situation would be the powers here that an MP could direct. But that is not there, and that could be a deliberate choice.

But again clause 11 is here, because again the lack of governance. Really, if we are moving for substantive reform to achieve the policy objectives mentioned by the Special Secretary today, the CDO is a public officer working for the ministry but serving the constituency set up, accountable to them, implementing the programs and everything like that in the ideal sense. That is really what it should be but because that is not the case, Clause 11 is skewed back to the ministry where the CDO keeps the record – is accountable to the ministry and the rest of it when all those things should be to the constituency set up and it is the constituency set up that should be accountable back because they make priority decisions and with the MP, the allocation decisions and all that.

I am just flagging that so that when you go back to discuss the policy backdrop to this to look at that as well in the sense of holding it to balance. This governance that we are talking about is really the bottom up approach that the late Ulu'ufalu was talking about very much. I am not saying this because the late Ulufa'aly is my predecessor, but this is the core of his thesis that the constituency is set up as a centre accountable for its decisions and close to the community. It is right within the community. If we are heading in that direction, I think clause 11 would need to reflect that. I thought I should just flag that.

**Mr Chairman:** That is important. The other person that needs people to be accountable to them is the Member of Parliament himself as well because he will have vested interest in what happens in the constituency. Otherwise we should not really be talking about the funds coming

to the constituency because this is addressing political interests as well. If we want to do away with it then these funds should be appropriately implemented through the ministries and not through members of parliament and constituency set ups. Why this happens is because of that, it also addresses political interests. No matter however we might want to argue here, it is still addressing the political interest of politicians. He wants to see developments happen in his constituency.

The other person that needs people to be accountable to him is the Member of Parliament before things can happen. If that person is only accountable to the ministry and is not concern about the interest of the person who is in charge of the constituency, then we might as well push it to the ministries to do it. There is a lot of tidying up that needs to be here. That is clause 11(2).

Clause 12, what is the reason of this clause?

**Ms. Selina Boso:** This clause also touches monitoring during the implementation of projects. Any officer here, when it comes to that function, the collaboration of government agencies or the people down there come together to perform monitoring or spot checks during implementation and see that projects are implemented as expected. That is why any officer here is not specifically specified. Only those in the constituency office but if there is an agriculture project in place, and the need for the agriculture extension officer to be there, they can go together and do those spot check inspections.

**Mr Chairman:** That includes where we order roofing irons as well, to inspect whether they actually cut the irons or not?

What about clause 13? It talks about the Auditor General auditing the accounts under the provisions of the Public Finance and Audit Act so we are assuming that you are going to come up with some minimum accounting procedures and accounting records for the constituency to keep so that there is a uniform whatever. Will that need regulations? Since you are coming up with a separate act, you might not just use the Public Finance and Audit Act,

but in accordance with that. But you need a minimum accounting system or procedures to be established in the constituency.

Now members of parliament are receiving letters from the Auditor General to audit the accounts of about 30 constituencies. He has to put up with different accounting different procedures in those constituencies. So unless we come up with some uniform procedures and minimum accounting records to keep, it will make their work much easier. I think he needs to be consulted as to what sort of records he wants for us to keep in our constituencies.

**Hon Derek Sikua:** I think you've made the point very clearly, but I want to again emphasise, including the format for acquittals because at the moment there is disparity in the format where we retire funds through acquittals. Some are just basically receipts and some of different forms. If you are going to build in minimum standards, processes and accounts for the funds, the format for acquittals would be good if you can guide Members of Parliament on how the funds (in what form) should they be acquitted that is acceptable to the ministry because there is a lot of disparity in relation to that at the moment.

**Hon James Tora:** In response to what the Leader has raised in regards to acquittal reports whether it will continue when this Bill comes into effect. In my view, any acquittal of funds allocated to each constituency as from next year, January, the CDO will be doing everything with the help of the senior accountant of a particular office. I think this will be a relief to us, the MPs to save us from going around looking for invoices and quotes. My thinking is that this will be solved when this Bill comes into effect.

**Hon Douglas Ete:** I feel clause 14 stopped short there. Who do you furnish a report to after an investigation is made? According to the principles of cooperative governance and its aim, it is to monitor the external structures, like who the suppliers are, who the players are here, who the rural participants are, whether or not they are receiving roofing irons or not. The internal structures would be the Member of Parliament himself and the CDO and the Financial



Controller. What are their roles? What are the roles of the CDO, the MP and the FC? How do they play in the whole set up?

The aim is to closely monitor and mitigate any corporate scandal that may arise there. But in the event such a thing happens and investigation is conducted what is next? I do not see any punitive action or would it be wrong to insert it here? After the Auditor's report is received what is the next step? I am only asking because it is part and parcel of the whole governance process that we are talking about. Thank you Mr Chairman.

**Mr Chairman:** What is envisaged in Clause 14 is a report will eventually be produced, and I think the question raised by the Member is where will the report go to?

**Mr Ranjit Hewagama:** I think at this instance because they are public officers they will be dealt with under the normal Public Service Regulations or if it is a criminal offence they can be charged under the Penal Code or as appropriate. Thank you.

**Mr Chairman:** So it is made for the benefit of the Ministry or who? The Ministry may cause maybe for the benefit of the people of the constituency and the public.

**Hon Derek Sikua:** On the power to order investigations, the way it reads in clause 14 looks one-sided where it can be taken to mean that any punitive action will be taken against the Member of Parliament and that is what is happening at the moment. But the mismanagement or misappropriation of funds also happens in our constituencies.

Members of Parliament will give the funds for whatever the people apply for, but instead of the constituents using the money to plant cocoa or teak or coconut and so on, they use it differently. Maybe they use it to buy a bag of rice or use it to drink beer and the money is not used for the cocoa. What do you do in this case? Everything we are trying to do will come to nothing if we are talking about rural development.

What is happening at the moment is Members of Parliament in almost all cases do give funds to our people; fishing projects, they get roofing irons and they go and sell them, they get

chain saws and go sell it again. They get funds for fishing projects and they also sell the outboard motor engine and canoes or maybe they use it just to hang around instead of fishing. This legislation must address this issue otherwise we are wasting our time because clause 14 is one sided. It is not only Members of Parliament that may mismanage or misuse the funds. Whilst MPs have rightfully given funds to people that should receive it, it is the constituents themselves too that are also misusing and mismanaging the funds.

The tourism projects that we are talking about. Funds have been given for tourism projects but I haven't seen any tourism activity like a rest house or a home stay in my constituency. The people just use the funds to buy taxis, which they called "mobile tourism or mobile eco-tourism". So what is this? How do you make punitive measures for people like that? This must also be considered under this bill so that people who apply for constituency development funds are serious about it. It is not something they get the funds and go and do other things with it. This is one important point I want to raise here because it happens all the time. We give our constituents millions of dollars, they blame Members of Parliament but in actual fact it is our people that are corrupting us. Thank you very much.

**Mr Chairman:** Thank you, a very valid point. The Bill as is structured now is silent on that. I guess it is the criminal activity that we report to the Police, which is the only avenue we have, but the bill does not address that. And as rightly pointed out by the Leader, it is written in the Bill that it is the Member that is suspected to have misused the funds, and so it is one sided. We will raise those points.

**Dr Philip Tagini:** I can see the point made by the Leader. I think clause 14 can be re-looked at with the spirit that has been communicated. In addition to that, and I might be jumping on the schedule, but also related to clause 12 as well as the form stated in the schedule, there is the need for monitoring sustainability of projects. Members of parliament are very familiar with the different kinds of projects that are supported by this fund. Some are purely humanitarian, which you do not really expect anything out of, you help in times of disaster that goes, and you

do not expect anything from that kind of spending. But there are others that we continue to support, for example, cocoa and copra, things that you would expect funding over one year or two years you would expect some tangible benefits, and not only that but sustainability on the part of the people who actually get the public money for. May be that can be incorporated in the schedule that there is a requirement for a sustainability plan for projects that are represented as income generating so that you can link that to clause 12 which is basically a monitoring and evaluation clause, clause 12 to see that this actually can be sustained in the future. But I think that can be made a requirement for the project application that projects that represent themselves as money or income generating must have with it a sustainability plan.

**Hon John Maneniaru:** I also want to make an observation in respect to clause 14. And this is in addition to what the Leader of Opposition has just commented on.

The other thing I do not see covered in the bill is after an election and the members and his supporters went back and demand a return of the projects, for example, solar lightings. When the current member loses his seat they go around and ask people to return the solars from the people because they did not vote for the current member claiming that those things belong to the current MP. There are recipients that fall victim to this and could do nothing when their solar lightings were retrieved from them. The former members of parliament of the constituency still assume they have right over constituency projects. Where will victims of such get help in such a situation? Who is going to help them? Is it the Police or who? Where is it provided for in the bill?

That is a practical example that has happened that I do not see covered in the bill. Also, projects that are not delivered or implemented and the time of the MP is up, what will the bill do about such project? Election finish but it still with the

**Mr Chairman:** Those are practical things that have actually happened, and that would be an offence or what? Projects are delivered to people and then elections happen and people lose and they go and collect everything back. It happens in some constituencies. Is that an offence?

**Mr Rajit Hawagana:** Chairman, I suppose it depends on who has ownership of it. I do not know once those things are given to the recipients whether they own it or whether the minister still has a hand on it, I don't know, I am not sure of that particular case. It is very difficult to answer that. I suppose it is an offence to go and get those things back, I do not know if ownership is passed to the recipients and the new owners.

**Mr Chairman:** I assume that ownership is passed and it should pass.

**Dr. Philip Tagini:** I just have two points. I think that is an area which facts might defer from time to time but in terms of the normal understanding of public funds these are public goods and the Member of Parliament is simply a steward administering those public goods. If it's given in the name of a community then the community or whoever acts on behalf of the community should receive it on behalf of the community. If it's given to individuals then that goes with the individuals and that is why there is monitoring in terms of how that money is used because its public funding, it comes from the public purse. Usually it will go down to the communities and they should keep it even after the Member of Parliament goes, because members of parliament come and go but the people are always there.

Secondly, in terms of what happens in those situations, sometimes it's hard to legislate for the entire breath of human activity, and this is one of those situations and we expect leaders to behave with integrity. If there is use I think that is some of the issues that integrity bill for leaders should be able to look at. I do not know whether that is captured already. It should under the current Leadership Code Commission and all those things. But I think there should be scope to question that kind of behaviour if it comes up, but in any event those are the kind of behaviours that can be captured under the integrity bill.

**Hon Douglas Ete:** I think this is my last question, and it is a more general kind of question. In the drawing up of the new – should I call it a model to which you now amalgamate funds from different sources, you must have in your mind or your ministry must have woken up one

morning and say 'last time when funds are in the ministry of agriculture or the ministry forestry they did not work' and you must have made an analysis on it, an economic analysis on it. Someone just has to tell us that this is the model that will work because last time it did not work maybe because developments got stuck somewhere along the tunnel and by the time funds arrive at the end of the tunnel there was a minefield there and so it blocks out everything. I want to hear the micro economic analysis of the new model from the Ministry of Rural Development and the Ministry of Planning. Just that now you are coming up with an idea like this, legislating it.

**Mr Chairman:** Do you want to respond to that PS.

**Ms Selina Boso:** I think what the honourable MP for East Honiara has mentioned comes back to the whole system of government we have that has been ongoing in terms of the system of government we want to address; the development needs of our people. But coming back to the establishment of the ministry itself and the ministry that is responsible for constituency development, utilising the constituency framework is something that is already incorporated in the constitution. The Ministry of Rural Development is playing shadow under section 154(1) which talks about constituencies with its own boundaries, communities and people. How best we get down there and address the needs of our people, I think is something we are still trying to find. So over the years we have seen the provincial governments, there is a lot of talks about services not reaching the people and now we have the proposed federal system because of pressing issues that people are complaining about on the need for government goods and services down there, and then we have the constituency model here.

Coming back to what I said about systems of government, it is looking into a structure or a system that is closer to the people. I think that is what we would like to see as the basis to say that this is really the way forward for us to go. And like I have mentioned, in less than five years since the establishment of the ministry we have proven that the ministry is delivering to the people. The government is delivering to the people through this approach.

Given time, and like I have mentioned earlier on strengthening the institutions we have there and this bill is about constituency, it is talking about constituency and so strengthening the constituency and putting in good legislations and ensuring that we have checks and balances in terms of institutions in place at the local level, provincial level and also at the national level I believe it can work. I cannot really give you the detailed economic analysis but that is my view on how I see this. And coupled with the economic growth centre policy of the government to address economic development throughout the country, addressing the development of EGCs through the constituency is something that should stimulate more economic activities down there at the constituencies and the involvement of people with job creations down there, and so I am optimistic. This bill is something to start us off and I am generally happy that it now has come before the Committee and we have thrown ideas and views into it to better improve it and with better regulations coming later as we go along, I believe we are moving into the right direction. I think that is briefly what I can say for now.

**Mr Chairman:** All the ideas since independence, all sorts of different ideas have been coming. In fact we almost had this constituency governance thing and I think the Chairman of the Foreign Relations Committee was directly involved with that. We were supposed to scrap provincial governments and go directly to the constituencies. That idea was thrown out when the SIAC Government came in and we came back to the provincial government system once again because of pressures from provincial governments. Maybe at some point in time some analyses needs to be carried on the effectiveness of some of the ideas that we are advancing that we are assuming will work like this and that. Our leaders who have been before us have also tried all sorts of models. At one point in time they had ministers for every province all in one ministry. You have a minister for Malaita, minister for Choiseul and something like that. These are all ideas as to how services can reach our people, and so these ideas are still revolving, and one of them is coming up now and we are going back again to this constituency governance thinking of the government at that time to go directly to the constituency instead of going through the provincial government system. But had it gone through there, most of the funds would have been absorbed into administration and nothing will get to the people. So

ideas are still revolving and so the point is very valid. Maybe at some point in time we need to carry out some kind of studies just in the interest of all of us so that we know what kind of system is effective and whether the need to move on further. Maybe the PS of Planning has some thoughts about this.

**Mr Jerry Manele:** I may not have the answer to that, but at some stage an analysis has to be done. Thank you honourable for that very important question. I do share the doors of optimism that my colleague has mentioned in terms of making a start somewhere. But I think at the end of the day whatever approach we decide to try and test to see whether it works, I think in terms of the bill, at the end of the day is the development results on the ground, and I think this is where politicians would like to see that services are delivered and that developments are taking place at the constituency. That is the challenge not only for constituency officers but the whole government machinery. I think at one stage part of the reason why we would like to go back and see whether the constituency approach works is probably parts of the public service does not have the capacity. Again, the same question will be applied here that once we go through this approach whether the issue of capacity will be sorted out, hence the discussions on the institutions and the structures are very important. But I think the real question at the end of the day, whichever approach we choose the fact is that results must be seen on the ground in terms of service delivery to our people, in terms of tangible development results being felt.

**Mr Chairman:** As well as that, I think we are still dwelling on the thinking that the MP for East Honiara and Chairman of the Public Accounts Committee has been telling us. This country has been on trial and error, trial and error and now we jump into this federal system of government. We have the provincial government system that we do not allow it to work the way it should work. We established that in 1983 and from day one when it was established we did not allow it to work the way it should work. And we do not want this system to suffer the same fate again. Here we are addressing continuously a development directly addressing constituencies and so allow it to work. And if we need to facilitate it, give it everything it needs.

If we need to establish governance structures and systems right in the constituencies to do justice to this, we must do it because that is the problem with the provincial government system. We did not allow it to work on day one and now we are saying it is not good and so we jump to the federal system. We could be jumping out from the frying pan into the fire, so there is now probably a difference in thinking whether we should push the federal system or allow the provincial government system to first of all work. And now we are addressing the real issues under this system because if you look at all the demands that come causing the tension, it is all about developments not happening in the provinces, and there is demand directly by the people of Guadalcanal, for example, telling the government to develop the other constituencies so that people can go back to their provinces and not live here on Guadalcanal to cause problems. All these are done in response to the way things are happening, both in politics and so leaders are thinking about ways of addressing these problems.

The cause of the tension, if you look at it, is all about lack of developments in the provinces; development is the core issue that was brought up and up again. Every time you analyze it, you would find out that things like this and that do not happen there and that is why people come here to Honiara, Guadalcanal.

Let us do justice to what we are bringing here to parliament; that set up and the appropriate question raised that if we have to carry out an analysis, at some point in time it has to be done. Many analysis have been done on the provincial government system and it was found out that it is lack of capacity. So who should be providing capacity to the provincial government system? It is the national government. All along we have been saying they do not have capacity and so functions cannot be devolved to them. That is what we are saying. But who should be strengthening the capacity of the provincial government system? It is the national government. But we have not been doing that. We did not allow it to work from day one. These are coming because we were saying that it did not work and we continue on to come up with new systems.

Yes, as rightly pointed out, services are going to be fully delivered. I am delivering 100 houses every year, for example through the help of funds that you are giving me to address the social needs of the people in the provinces; delivering 200 sets of solar lightings every year; 100



tanks every year directly to the people as what we wanted to happen. You see people involved in teak plantations, cocoa and this is because of funds going directly to the constituencies. Members of Parliament may be can testify to different situations in their constituencies. But yes, it works so make it work; I think is the point. And the way the bill is now drafted seems like it will not really support the thinking we would like to put forward for this set up to work. I think that discussion emanates from the question raised by the Chairman of the Public Accounts Committee and a very relevant one too, because we will continue to come with new systems because we did not allow the systems to work first.

**Dr. Philip Tagini:** May be not respond to that concern but I have not had the chance to be here when the preliminaries and the principles have been discussed, but thank you Honourable Ete, I think that is a very valid point and I agree with all the sentiments, particularly yours, chair, that we have been experimenting a lot of issues and a lot of systems to date.

Having said that, I think that is not out of order. I think countries go through this process; countries take 300 to 400 years to experiment to find out systems that work for their people. And so I do not think it is extraordinary to be in that situation given our recent history of independence and governance.

Just a couple of points. I think I agree with Honourable Ete that at some point in time there needs to be a thorough economic analysis of the system that we are slowly moving into. It would have been really good if we have had that analysis before us going into this bill. On previous occasions I have asked for that and I do not think that is available but we are here. This is not the first country that is using this. There are other countries around the world that have used constituency development funds; Kenya and other places around the word have used this quite successfully. And the key is not really about a particular system, it is about the principles we use to implement those ideas. They need to be based on these principles, and I guess that applies to whether you have a central government or a federal government. It is not the system because systems are okay but it is just the way we govern and the principles we use to govern that system that is really important. We can look at other countries that have quite successfully used this model and it is clear that there are certain basic principles that we have

to use to measure the framework too, and one is responsiveness. Basically, we need to be responsive to the needs of the community straight on so we have to find a process that is able to link the need to the provider of the service that is quite direct.

Then there is the need for transparency and what we are doing today is basically ensuring that the system is transparent so that it can be questioned, people who need to find out about answers can find out about those, people who make decisions are able to make it knowing full well that they are always under the spotlight and can be called up for answering the basis or the details of decision making.

It also has to be managed by an administrative body and I think that is one of the keys that we are pointing towards now; to have a governance system that is robust enough to take care of the needs of those who govern and as well as those who receive from the system. And then I think accountability and oversight; we have talked a lot about, systems of oversight too. Those are the real principles we are trying to build into the system. What we have done is actually a very big step towards that but we will continue to see that those principles are implemented in this process.

I have my doubts; I mean nobody has all the answers to any system that is developed. I think what the Chair said is very true that there might be something in the future that we have not really conceptualise when implementing these things and it might come up in the future and we might not have answers to them and so creating more difficulties for us. But I think having looked at what we have had in the last 35 years in our experiments with the central government and its relationship with the provincial governments and communities, I personally think that we can try that in the next 30 to 40 years with the same systems that we have and the kind of organic operation of politics superimposing on these institutions and working with the communities, it might be still difficult to rectify that.

I think what we have now is a process that simply crystallises the human person or communities to look at their needs and say, 'okay, these are the needs of the communities, let us see how we can most directly provide for those needs in a way that is quite transparent'. I think that is the idea, but of course, it is just an idea and we need to build frameworks to get there, and I hope that this is going to contribute one way or another towards that. But

obviously we will continue to change and continue to improve the systems that we build and that will, of course, be dictated by the needs in time as we move along.

**Hon. John Maneniaru:** The bill is trying to address constituency development funds. I would just like to flag that like the other million dollar projects with no systems in place to really control them, for example, the economic growth centres, there are millions of dollars there, but how are those money accounted for? What system provides for that? It seems that it only goes to politicians and that is the end. That is also a million dollar project, almost similar to the constituency projects in terms of the dollar value. May be somewhere in here the million dollar projects that do not go directly under ministries maybe should be catered for under this bill as well because it relates to constituency and we are concerned about the accountability of those public funds. I just want to flag that.

The other thing is that I am quite happy with the way the funds are mobilised and put through a system that can be accessed by constituencies, like forestry can come onboard, health, agriculture. There are other ministries that offer very important services to the constituencies that are still under ministries which are often subject to biased decisions and discrimination. One example here is that some ministry funding, those of us from the Independent and Opposition cannot access because politics is involved. But we also represent the 50 constituencies that make up the country. And so I for one would like to submit that the other services our people need and funding goes direct to ministries should also be pulled into this system that we are trying to establish here and should be spelt out here under the services that they are budgeted for, like health is actually spelt out, so that funding goes direct rather than going back to the ministry and then we go back to the old system that we are trying to address because of complaints that are coming. That is my comment.

**Hon. Derek Sikua:** I think a point was made earlier that in this Bill we need to move away from conceptualizing the 50 constituencies. The law has already been approved by Parliament that we can have 70 and at whatever time we feel there may be more than 70, maybe moving to

100 so move away from that kind of planning for 50 constituencies. That is the first point I would like to make Mr Chairman.

Reiterating the point made by my colleague Leader of the Independent Group, these funds belong to our people whether we are in government or the opposition side should not make any difference. I am happy with this Bill because if it is enforced, the practice that only government members will be given funds first and the others on the Opposition and Independent Group on the other side of the House will have to wait for later until such time every member on the Government side has been paid. We must put a stop to that. I hope this Bill will address this concern, as we are experiencing now. We are now into March and yet we have not received any funds. We hope it is all members and not just those of us in the Opposition Group.

Talking about modelling and that sort of thing, although we have already scrapped the area councils, that is a level of government in the past that went right down to our grassroots people. Probably there are lessons to be learnt from the short experience we've had with area councils, and more so in relation to the committees and who is in there and who we can make use of as a constituency. Members of Parliament know that but probably the Ministry can start looking at who are involved and who are the contact people and all that kind of thing at that level before it was scrapped some years back. Otherwise, Mr Chairman, having a bill like this is a good one. It is just that this has a lot of gaps in it that we need to look at more closely before we can bring it back to Parliament.

**Mr Chairman:** Thank you Leader of Opposition. Let us have a final word from the Permanent Secretary and the Prime Minister's Office.

**Ms Selina Boso:** Thank you Mr Chairman. I won't talk too long. As we close I would like to take this opportunity to thank you and members of the Committee for having the ministry here before you. This is a very important bill as it concerns the people of this country. I widely welcome all the concerns and issues that have been discussed during our session here today in regards to the Bill itself.

On the part of the ministry, we have been working on this Bill since last year. We came through some hurdles and we had to stop but we start to continue working on it. The important part of the ministry is that we have finally brought something here in which we believe that with consultations and your expertise and contributions coming from the public at large and other development stakeholders, it will greatly assist the ministry to pursue and improve the Bill and finally come with something that will be appreciated by all of us and the government to also bring maximum benefit to our people.

I thank you all for this opportunity and I also acknowledge those who are with me sharing their views, concerns; colleagues from Development Planning, the Legal Draftsman, the Auditor General and the Office of the Prime Minister, the Special Secretary to the Prime Minister (SSPM) and thank them for coming to assist and share the views of the government and our respective ministries. I look forward to the report you will produce to Cabinet on our discussions and from there on the Ministry will continue to further dialogue and work with you on this Bill. Hopefully, we will get it to Parliament in good time. With that, thank you.

**Mr Chairman:** Thank you very much and on behalf of the Committee I thank you all for coming. It's taken the whole day. Thank you SSPM for coming on behalf of the Prime Minister's Office, the Ministry responsible for co-ordinating government policies and programs. The discussions we've had and views expressed have been all in the interest of doing something good to present to Parliament. It is in the interest of all of us to have a legal framework to implement these funds because at the end of every year the funds also increase. We thank you for your presence and the views expressed. We will meet with stakeholders from outside the government starting tomorrow. They will come to express their views. Today has been confined to government ministries, Legal Chambers and the government set up. Tomorrow we will be talking to other stakeholders. Thank you.